TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1901.

No. 152

THE CITY OF DETROIT, WILLIAM C. MAYBURY, MAYOR, AND CHARLES FLOWERS, CORPORATION COUNSEL, APPELLANTS,

vs.

THE DETROIT CITIZENS' STREET RAILWAY COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MICHIGAN.

FILED SEPTEMBER 4, 1900.

(17,897.)

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DETROIT CITIZENS' STREET RAILWAY COMPANY, Complainant,
v.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, and Charles Flowers, Defendants. } No. 3631.

Bill of Complaint.

And now, on this day—that is to say, on August 16, 1899—comes the complainant, The Detroit Citizens' Street Railway Company, by Brennan, Donnelly & Van De Mark, Henry M. Duffield, and Fred A. Baker, its solicitors and counsel, and files in said court a bill of complaint as commencement of suit, which bill is in words and figures following, to wit:

In the Circuit Court of the United States for the Eastern District of Michigan, Southern Division. In Equity.

To the circuit court of the United States for the eastern district of Michigan, in equity:

Humbly complaining, your orator, The Detroit Citizens' Street Railway Company, respectfully represents unto this honorable court:

1. That it is a street railway corporation, organized as such under and by virtue of the provisions of chapter 95, Howell's Annotated Statutes of Michigan, which pr-vides for the incorporation of
4 street railway companies, and your orator was so incorporated on the — day of September, 1891, and is a citizen of the State of Michigan and a resident of the eastern district thereof; that by sections 13 and 14 and 20 of said chapter 95 of Howell's Statutes it is and was prior to the incorporation of your orator provided as follows:

"SEC. 13. Any street railway corporation organized under the provisions of this act, may with the consent of the corporate authorities, of any city or village, given in and by an ordinance or ordinances duly enacted for that purpose, and under such rules, regulations and conditions as in and by such ordinance or ordinances shall be prescribed, construct, use, maintain and own a street railway for the transportation of passengers in and upon the lines of such streets and ways, in said city or village as shall be designated and granted from time to time for that purpose, in the ordinance or ordinances granting such consent, but no such railway company shall construct any railway in the streets of any city or village until the company shall have accepted in writing the terms and conditions upon which they are permitted to use said streets; and any

such company may extend, construct use and maintain their road in and along the streets or highways of any township adjacent to said city or village upon such terms and conditions as may be agreed upon by the company and the township board of the township which agreement and the acceptance by the company of the terms thereof, shall be recorded by the township clerk in the records of his township.

"SEC. 14. After any city, village or township shall have consented as in this act provided in the construction and maintenance of any street railways therein or granted any rights and privileges to any such company, and such consent and grant have been accepted by the company such township, city or village shall not revoke such consent nor deprive the company of the right and privileges so conferred.

"SEC. 20. The rates of toll or fare which any street railway company may charge for the transportation of persons or passengers over their road, shall be established by agreement between such companies and the corporate authorities of the city or village where the road is located, and shall not be increased without consent of such authorities."

2. That your orator shortly after the date of its incorporation and on or about the — day of September, 1891, acquired by purchase from certain street railway companies then owning the same
5 certain lines of street railway constructed and in operation in the city of Detroit, and especially the lines of street railway theretofore constructed or owned and operated by the Detroit City railway, and certain other lines of street railway owned and operated theretofore by the Grand River Street Railway Company, and that since the date of its purchases aforesaid it has continued to maintain and operate said lines of street railway up to the present time, and your orator is now engaged in the operation and maintenance of said various lines of street railway as the owner thereof.

3. That on the 24th day of November, 1862, the City of Detroit, a municipal corporation organized under a special charter granted by the legislature of the State of Michigan and residing in the eastern district thereof and being a citizen of said State (and whom your orator makes a defendant to this bill of complaint), through the common council, entered into a contract with Eben N. Willcox and his associates, successors, and assigns, by the terms and provisions of which, among other things, the said Willcox and his associates, successors and assigns, when organized into a corporation under the laws of the State of Michigan, were authorized, permitted, and empowered to construct, equip, maintain, and use single or double track railways, with all necessary and convenient tracks, turnouts, and switches, in, along, and through certain therein-named streets, avenues, and public places in the city of Detroit, and to operate thereon railway cars and carriages upon certain terms and conditions set forth in said contract; that said contract was
6 adopted by the common council in the form of an ordinance which was duly accepted by the grantee therein named, his successors and assigns; that said Willcox, his associates and

assigns, were duly organized into a corporation under the train or tram railway law, being chapter 94 of Howell's Annotated Statutes, by the name of the Detroit City railway, and said corporation duly accepted said ordinance and undertook to and did carry out and perform all the terms and conditions thereof; that said ordinance when accepted became a valid and bonding contract, by the terms of which the said Detroit City railway and its successors and assigns became entitled to own, construct, use, and operate street railways in the streets therein named, according to the terms of said grant or contract, with all the rights, privileges, and franchises thereby conferred and granted; that under and by virtue of the terms of said contract said Detroit City railway and its successors and assigns entered upon the streets of said city and constructed and put in operation thereon and has since maintained and operated certain lines of street railway, and especially on Jefferson, Woodward, Gratiot, — Michigan avenues, in said city; that under and by virtue of certain amendatory and supplementary grants thereafter made to said Detroit City railway by the said City of Detroit, extending the provisions of said contract to certain other streets and avenues in said city, the said Detroit City railway constructed and put in operation and ever since the construction thereof has maintained and operated certain other lines of street railway in said city, all of which were constructed and have been maintained and operated under said supplementary grants, — are lines of street railway on Brush, Trumbull, Chene, and East Fort streets, in all amounting to — miles of street, upon many of which the said Detroit City
7 railway, its successors and assigns, have from time to time constructed double tracks, changing the original roads from single to double track roads.

4. Among other things section 8 of said contracts and ordinance of November 24th, 1862, provided as follows:

"SEC. 8. The rate of fare for any distance shall not exceed five cents on any one car or on any one route named in this ordinance, except where cars or carriages shall be chartered for specific purposes, provided that cars so chartered shall not be considered regular cars within the meaning of the preceding section."

And by section 5 of said contract or ordinance it was provided that the routes of all of said railways should commence on Woodward avenue at the Campus Martius, from thence running on their several courses to the outer limits of the city; that for the purpose of collecting fares the limit on each of said avenues named, to wit, Jefferson, Gratiot, Michigan, and Woodward avenues, should each be considered a separate route; that by a subsequent grant under which the lines on Brush street and Trumbull avenue were constructed the same were maintained each as a separate route; that under and by virtue of said grant of November 24th, 1862, and the grant of the right to construct, maintain, and operate lines of railway on Brush street and Fort street east and Trumbull avenue the grantee thereof and your orator, its grantee and successors, became and *is* entitled to exact and collect from each passenger taking passage on any one of the routes named the full fare of five cents for a

single ride in any direction over any portion of the route on which he took passage, and such passenger was not entitled to have or receive from the grantee in consideration of his payment of said fare of five cents any transfer ticket or other contract or have the
8 right to a free ride over any one of the other routes of the grantee, nor was such passenger entitled to such free ride, nor was he entitled to ride over more than a portion of any one of said routes, and upon payment of his fare therefor to be transferred to or carried over any portion of any other route without the payment of additional fare; that besides the routes and lines last aforesaid named, to wit, Jefferson, Gratiot, Woodward, Michigan, and Trumbull avenues and Brush street, certain other lines and routes were granted to said Detroit City railway by the terms of a contract entered into between the said City of Detroit and said grantee, approved January 3rd, 1889, in the form of an ordinance duly accepted, by which the said grantee became entitled to construct, maintain, and operate lines of street railway in, along, and through Fort street east, Mack street, Chene street, and Cass avenue, in the city of Detroit, and to connect its lines on Michigan avenue with its line or route on Monroe and Gratiot avenues so that the cars might be brought through and over the same; that the said Detroit City railway, under and by virtue of said contract and grant, constructed and put in operation and the said Detroit City railway and its successors and assigns *has* since said date maintained lines of railway upon the routes therein named, except on Cass avenue, which has not yet been constructed, and the same are now maintained and operated by your orator; that section 4 of said contract and grant of January 3rd, 1889, provided as follows:

"SECTION 4. The above-mentioned additional lines shall be operated in connection with and as part of the present system of the Detroit City railway, but the permission and authority hereby given shall be inoperative and void unless the said Detroit City railway shall file a written acceptance thereof within thirty days from
9 the date of the passage of this ordinance, in which the said company shall agree to do and perform the following with reference thereto, to wit:

"A. It shall carry passengers from its Cass Avenue and Third Street, Trumbull Avenue, Michigan Avenue and Congress and Baker Street lines to any point on the proposed line on Fort street east or the easterly terminus thereof, for a single fare of five cents for one continuous trip, and from the easterly terminus of the proposed line on Fort street east or from any point thereon, to any point on Congress and Baker Streets, Michigan Avenue, Trumbull Avenue and Cass Avenue, and Third Street lines for a single fare of five cents for one continuous trip.

"A passenger paying a single fare of five cents on the line hereby authorized to be constructed on Joseph, Campau, Atwater and Chene streets shall be entitled to be transferred at Fort street east to any point on said Fort Street line in one continuous trip, or to be transferred at Gratiot avenue to the line on said Gratiot avenue to be carried to any point on said Gratiot and Michigan Avenue lines in

one continuous trip. A passenger paying a single fare of five cents on the line hereby authorized to be constructed on Fort street east shall be transferred at Chene street to said Chene Street line and carried to any point thereon in one continuous trip.

"B. A passenger paying a single fare of five cents on the Gratiot Avenue line shall be entitled to a continuous ride over said Gratiot Avenue line and proposed lines on Chene street and Fort street to the Belle Isle bridge; and from the Belle Isle bridge in reverse direction over the Fort Street East Chene Street and Gratiot Avenue lines for a single fare of five cents for one continuous trip.

"C. It shall arrange for and carry out an interchange of traffic on the Michigan and Gratiot Avenue lines either by transfer of passengers or by running through cars, so that passengers will be carried from any point on either of said roads to any point on the other for a single fare of five cents for one continuous trip.

"D. Such arrangements shall be made by said company that within two months after this ordinance shall have been accepted by said company it shall carry such passengers as shall have taken passage on the cars between the hours of 5.30 o'clock and 7 o'clock in the morning and between the hours of 5.15 and 6.15 o'clock in the afternoon over any of its lines in said city for a single fare to be paid for by a ticket sold at the rate of eight tickets for twenty-five cents for one continuous trip, with all the rights of transfer and through carriage provided for in paragraphs A, B and C of this section.

"E. It shall within six months take up and remove its turn-table now at the intersection of its Jefferson and Woodward Avenue lines and shall run the cars on the said Woodward Avenue lines to the foot of Woodward avenue, and shall construct and maintain all necessary and convenient tracks for switching purposes south of Atwater street on said Woodward avenue."

5. That the provisions of said contract and grant of November 24th, 1862, as to the rates of fare which the grantee therein named and its successors and assigns should be entitled to exact and receive for the transportation of passengers were by the contract of January 3rd, 1889, of the parties modified only to the extent of providing that for certain hours in the day, to wit, from 5.30 to 7 o'clock in the forenoon and from 5.15 to 6.15 in the afternoon, a ticket sold at the rate of eight tickets for twenty-five cents or the payment of five cents at any time should be accepted in payment for one continuous trip, with the right of transfer from certain of the lines of street railway of the grantee therein named to certain other lines of street railway therein named belonging to the said grantee; which right of transfer entitled the party holding the same to a free ride upon the route or line to which he was transferred, but to no other route of the said grantee was a passenger paying his fare either on the basis of five cents or a ticket sold at the rate of eight tickets for twenty-five cents entitled to a free ride or transfer; that under the terms of said grant the rights of transfer were limited as follows: From Cass Avenue and Third Street, Trumbull Avenue and Congress and Baker Streets lines to the Fort Street

east line, and from the said Fort Street east line to Congress and Baker, Michigan Avenue, Trumbull Avenue, Cass Avenue and Third Street lines, and from the line of Chene street to Fort street east or to Gratiot avenue, and on such transfer to be carried to any point on the Gratiot and Michigan Avenue lines as one route; also from Chene Street line to the said Fort Street east line, and thence over the Fort Street east line to Belle Isle bridge, and thence in a reverse direction from the Fort Street line to the said Chene and Gratiot lines, and the further modification that the said
11 Michigan and Gratiot lines should be operated substantially as one route at a single rate of fare for one continuous trip.

6. That by a contract in the form of an ordinance entered into on May 1st, 1868, the said City of Detroit granted to Nathaniel Prouty, Moses F. Dickinson, William B. Wesson, Harvey King, James P. Mansfield, and their associates, successors, and assigns, organized into a corporation under the laws of the State of Michigan, the right to construct, maintain, and operate a single or double tracked street railway, with all necessary and convenient tracks for turnouts, side tracks, and switches in, along, and through Woodward avenue from Jefferson avenue to Grand River avenue, and thence along Grand River avenue to where it is crossed by the tracks of the Michigan Southern and Detroit, Monroe and Toledo railroad; that afterwards the said parties were organized into a corporation known as the Grand River Street Railway Company under and by virtue of the provisions of chapter 94 of Howell's Annotated Statutes and duly accepted the said contract and grant, and under the terms thereof constructed and put in operation and the said company and its successors and assigns has ever since maintained in operation a line of street railway upon the streets therein named; that by section 6 of the said ordinance and contract the grantee therein named was authorized to charge five cents fare for the carriage of a passenger over its said route; that subsequently the grantee therein named was authorized under the provisions of said contract to construct and operate a line of street railway on Myrtle street from its intersection with Grand River avenue westerly to Mt. Hope avenue, and was thereby required to run its cars
12 from the westerly terminus of said Myrtle street over its line of Grand River and Woodward avenues to Jefferson avenue, and should be entitled to charge for the carriage of a passenger thereon five cents fare; that by contract entered into on the 3rd day of January, 1889, the said City of Detroit granted to the said Grand River Avenue Street Railway Company the right to construct, maintain, and operate a double-tracked street railway along and through the said Grand River avenue, so called, from its junction with Woodward avenue to the city limits, and also in, along, and through Crawford street from its junction with Grand River avenue to the Detroit & Bay City Railway crossing; also on Congress street east from its intersection with Woodward avenue to the easterly limits of the city of Detroit, all of which said additional lines were to be operated in connection with the then existing line of the said grant-

ees. By the terms of last-mentioned contract the said grantee became entitled to charge a fare of five cents for any one passenger for a continuous trip from any point on the line of Congress street east in a westerly direction to any point on any one of the lines on Grand River, Myrtle, or Crawford streets, or from any point on any one of the said lines to any other point on the line on which passage is taken or on any of the lines of said railway except between the hours of 5.30 o'clock to 7 o'clock in the forenoon and 5.15 and 6.15 o'clock in the afternoon, when — was required to carry passengers over the routes between the points above named for a ticket sold at the rate of eight tickets for twenty-five cents when tendered by a passenger; that subsequently your orator, by mesne conveyance, acquired all of the lines of street railway constructed on the streets named
13 in said grants and contracts, and acquired by such conveyances all the contract rights, franchises, rights, and privileges thereby conferred, and especially the right to operate the said lines of street railway, and to receive and exact the rates of fare fixed and agreed upon by the terms of said contracts, and your orator is now in the possession and ownership of the said contract rights, grants, privileges, and franchises and in the ownership, possession, and management of the said lines of street railway.

7. That the common council of the city of Detroit on the sixteenth day of August, 1899, passed and adopted an ordinance entitled "An ordinance to amend an ordinance of the city of Detroit approved December 3rd, 1885, entitled An ordinance extending the charter of the Grand River Street Railway Company and providing for the payment of the tax by said company by adding a new section thereto to stand as section 3*a*." A copy of said ordinance is hereto attached and marked Exhibit "C" and hereby made a part of this bill of complaint; that said ordinance was afterwards approved by the mayor of said city, and the City of Detroit claims and contends that the same is valid and is now in full force and effect; that by the terms thereof the said City of Detroit attempted to require that your orator, its successors and assigns, should keep on sale on its cars in service at all times on said lines of railway tickets to be sold in strips or packages of eight tickets for twenty-five cents, each of which tickets should be accepted by your orator, its successors or assigns, for a single ride for any distance in either direction over the lines or routes operated by your
14 orator or its successors or assigns on the car on which it is presented, and a passenger presenting such ticket or upon payment of one single fare charged by your orator should be entitled to a transfer ticket, good for a free, continuous ride over any other line or route operated by your orator, if such ticket is presented for such ride on the next regular car of such other route within fifteen minutes after the passenger holding the same leaves the car on which he received such transfer ticket; that in and by said ordinance it was intended by the said City of Detroit to alter, amend, and lessen the rate of fare fixed by the terms of the original agreement, which up to that time had remained in full force and effect, for the carriage of passengers by the said Grand River

Street Railway Company and your orator, as its grantee and successor, without the consent or agreement or request of the said Grand River Street Railway Company or of your orator, and to require that your orator, as the now owner and operator of said lines of street railway, should not only transport a passenger taking passage upon a car on the routes of the said Grand River Street Railway Company at said reduced rate of fare, but also to transfer him at his request to any other line or route owned or operated by your orator and transport him thereon free of charge at the rate of fare which said City of Detroit, through its common council and mayor, undertook to fix by the said ordinance, Exhibit "C," without the consent or agreement thereto of your orator or the said Grand River Street Railway Company.

8. That on the 17th day of April, 1886, the common council of the city of Detroit, with the approval of the mayor of said
15 city, entered into a contract in the form of an ordinance with George Dorr, Samuel A. Plummer, Calvin K. Brandon, Bethune Duffield, their associates, successors, and assigns, organized into a corporation under the laws of the State of Michigan, by which the said City of Detroit granted to the said parties, organized into a corporation, the right to construct, maintain, and operate a line of street railway in, along, and through 24th street and Dix road from the intersection of 24th street and Baker street to the westerly city limits on Dix road. By section 6 of said contract the grantees were authorized to charge and entitled to receive a rate of fare of five cents for the carriage of a passenger for any distance over its said line of railroad within the city limits, and also to any point on the line of cars running on Congress and Baker streets, and upon the payment of a like fare a passenger was entitled to ride from any point upon the Congress and Baker Street line to any point on the said line of 24th street and Dix road; that said line of street railway was constructed and put in operation and has since been maintained and operated under and by virtue of the terms of said grant and contract, and the same is now in the possession and control and is being operated by your orator under the terms of said grant; that on the sixteenth day of August, 1899, the common council of the city of Detroit adopted an ordinance entitled An ordinance to amend an ordinance of the city of Detroit approved April 17th, 1886, entitled "An ordinance to permit certain persons to establish and locate a street-railway line along the following streets: Commencing at the intersection of Baker and 24th streets, thence along and through 24th street to the Dix road, and along said Dix road to the city limits, by adding a new section thereto, to stand as section 22*a*." A copy of
16 said ordinance is hereby attached and marked Exhibit "D" and hereby made a part of this bill of complaint, which said ordinance was afterwards approved by the mayor of the city of Detroit and is now claimed by said City of Detroit to be in full force and effect; that by the terms thereof the said City of Detroit sought to require your orator to keep on sale on its cars in service on said lines of railway at all times tickets, to be sold in strips or packages

of eight tickets for twenty-five cents, each of which tickets should be accepted by your orator or its successors and assigns for a single ride for any distance in either direction over the said line or route so operated by your orator, its successors and assigns, on any car on which it is presented, and a passenger presenting such ticket or upon payment of a single fare charged by your orator be entitled to a transfer for a continuous ride over any other line or route operated by your orator, if such ticket be presented on the next regular car of said other route within fifteen minutes after the passenger holding the same leaves the car on which he received it; that it was intended by said Exhibit "D," and without the consent or agreement of your orator, to reduce the rates of fare which by the terms of the contract heretofore set up the said Calvin K. Brandon and his associates organized into a corporation, and your orator, as successor and assignee thereof, was entitled to charge for and receive for the transportation of passengers over the said line or route, and to require that your orator, as successor of said original grantee in the control and operation of said line of railway, *to* carry such passenger at a less rate of fare than that fixed by the original contract, and in addition thereto to require your orator to carry
17 any passenger taking passage over or on the line of railway upon Dix avenue and 24th street to any other line or route owned or controlled and operated by your orator in the said city of Detroit for a single rate of fare fixed by the said Exhibit "D" and without the consent or agreement of your orator or of the original grantees to the same.

9. That on the 13th day of July, 1886, the common council of the city of Detroit, with the approval of the then mayor, entered into a contract in the form of an ordinance with the Highland Park Railway Company, its successors and assigns, by the terms of which the said Highland Park railway was granted the right to construct, maintain, and operate a single or double tracked street railway in, along, and through Woodward avenue from the northerly side of the Grand Trunk railroad crossing to the then northerly city limits. By section 5 of said contract the said Highland Park Railway Company was authorized and entitled to have, receive, and collect for the carriage of single passengers a fare of five cents, which would entitle such passenger to ride to any point on the line of your orator on Woodward avenue within the limits of the said city. That your orator is now in the possession of and engaged in the operation of the line of railway constructed under said grant and contract, as lessee, and is entitled to maintain and operate the same at the same rates of fare fixed by the said contract, Exhibit "E;" that upon the sixteenth day of August, 1899, the common council of the said city of Detroit, with the approval of the mayor, adopted an ordinance to amend an ordinance of the city of Detroit approved July 13th, 1886, entitled An ordinance to authorize the Highland Park Railway Company, its successors
18 and assigns, a body corporate, organized under the laws of the State of Michigan, to construct, maintain, and operate a railway on Woodward avenue between the railroad crossing and the

northerly city limited by adding a new section thereto, to stand as section 22*a*. A copy of said ordinance is hereto attached, marked Exhibit "E," and hereby made a part of this bill of complaint; that by the terms of said Exhibit "E" the said City of Detroit seeks and intends to require your orator — keep on sale on its cars in service on the line constructed by said Highland Park Railway Company tickets to be sold in strips or packages of eight tickets for twenty-five cents, each of which tickets should be accepted by your orator and its successors and assigns for a single ride for any distance in either direction over said line of railway or over any of the lines or routes of railway owned or operated by your orator, and that a passenger presenting such ticket or upon payment of a single fare charged by your orator should be entitled to be transferred to and carried over any other line or route operated by your orator free of charge should the transfer ticket be presented by the person holding the same within fifteen minutes after the holder thereof should leave the car on which he received it; that the said City of Detroit in the adoption of said ordinance intended and attempted to reduce the rates of fare which your orator, as lessee of the said Highland Park Railway Company lines, was entitled to charge under and by virtue of the terms of the contract, Exhibit "E," and to require your orator to carry and transport passengers and transfer the same to its other lines at a rate of fare less than that fixed by said contract, Exhibit "E," without the consent or agreement of your orator to such reduction, change, or modification.

19 10. That your orator, by mesne conveyances and transfers and leases, has become the owner or lessee of all of the contract rights, franchises, and ordinance grants hereinabove recited and set forth and of the lines of street railway constructed, maintained, and operated thereunder, and as such owner or lessee is now maintaining and operating said lines of street railway under and by virtue of the terms of the said contracts, ordinance grants, and franchises, and is possessed of and has the right to the enjoyment of all of the rights, franchises, privileges, and franchises created and granted by the said various original contracts, ordinances, and ordinance grants, and whatever said rights, franchises, and grants may be, your orator is now in the full possession, ownership, and enjoyment thereof as the owner thereof.

11. That under and by virtue of the terms of said original contracts and ordinance grants your orator is entitled to have, receive, and exact for the carriage of passengers over the lines of street railway owned, leased, and operated by it a full fare of five cents for a single ride for a continuous trip in any one direction over any one of the routes laid out and described in the said contracts and ordinance grants, and is not required to give a transfer to any passenger paying such rate of fare to any other route or line and carry him on such other route or line free of charge except as the same has been modified by the terms of the agreement of January 3rd, 1889, to which reference has heretofore been made, and the terms of said various ordinances fixing and agreeing upon the rates of fare above

set forth have been duly accepted by your orator and its
20 grantors, became and are fixed by contract, and the right of your orator to charge and exact the rates of fare above set forth became a contract right of your orator, which it is entitled to have, hold, and maintain unrestricted and unimpaired and which the said City of Detroit has not the lawful right in any way or manner to impair or evade.

12. Your orator further shows that the said City of Detroit is a municipal corporation organized under a special charter granted by the legislature of this State; that whatever governmental powers it possesses it has received the same by virtue of direct and express grant from the State of Michigan, and it has and possesses no governmental legislative capacity except such as is granted by the terms of its charter and such authority as has been granted to it by statute to enter into agreements for the construction, maintenance, and operation of street railways in its streets by corporations or companies organized under chapters 94 and 95 of Howell's Annotated Statutes, hereinbefore referred to; that the grants heretofore made to your orator and its predecessors and the contract rights thereby created and conferred were made, created, and conferred by the said City of Detroit under and by virtue of the authority conferred upon it by the legislature of the State of Michigan by the provisions of said chapters 94 and 95 of Howell's Annotated Statutes, and in the making of said original contracts and grants and the fixing of the terms and conditions thereof, and especially in fixing the rates of fare which the grantees were entitled to have and receive for the carriage of passengers, the said City of Detroit exer-
21 cised the power delegated to it by the legislature and as the representative and agent of the State of Michigan.

13. Your orator further alleges that the grantors and lessors of your orator, each fully believing that it had by virtue of the said several contracts and ordinances the full power, right, and authority to charge and have and receive the rates of fare hereinbefore set forth and stated without reduction or impairment, and that the provisions of said contract with reference to said rates of fare were valid and binding and could not be altered, amended, or repealed by said City of Detroit, constructed the various lines of street railway hereinbefore set forth and put the same in operation, and the said companies, their successors and assigns, and your orator have continued to maintain and operate the same from thence hitherto in the full faith and belief that the rates of fare aforesaid were fixed and determined and could not be altered, amended, or repealed by the City of Detroit without the consent of the grantees, their successors or assigns, and in the construction, maintenance, and operation of said roads have expended large sums of money, all of which was well known to the said City of Detroit, its officers and agents, and it alleges that in law it is entitled to have and maintain said rates of fare without reduction, amendment, or interference by the said City of Detroit and to have the said contract and grant maintained unimpaired and in full force and effect.

14. Your orator further alleges that on the sixteenth day of

August, 1899, the said City of Detroit adopted in form and
22 manner as provided by the charter of said city an ordinance entitled "An ordinance to amend an ordinance of the city of Detroit approved November 14th, 1879, entitled 'An ordinance supplementary to an ordinance entitled "An ordinance to permit certain persons to establish and locate certain street railways in the city of Detroit, approved November 24th, 1862," and the amendments thereto, and for other purposes,'" by adding a new section to stand as section "6*a*," a copy of which ordinance is hereto attached and marked Exhibit "A" and hereby made a part of this bill of complaint; that by the terms of said ordinance, Exhibit "A," the said City of Detroit attempts, without the consent of your orator, to reduce the rates of fare which your orator in and by the terms of its contract with the said city is entitled to have and receive for the carriage of passengers, by requiring your orator to keep for sale on its cars in service at all times tickets to be sold in strips or packages of eight tickets for twenty-five cents, each of which tickets should be accepted by your orator, its successors or assigns, in full payment for a single ride for any distance, in either direction, over the lines or routes operated by its successors or assigns on the car on which it is presented, and that a passenger presenting such ticket would be entitled to a transfer ticket good for a continuous ride over any other line or route operated by said company, if the same is presented for such ride on the next regular car on such route within fifteen minutes after such passenger leaves the car on which he received such transfer ticket, thereby attempting to deprive your orator of its right under the said contract grants to have and receive for the carriage of passengers the rate of fare fixed by said contract and grants, and to compel it to receive for the service which
23 it is required to render in the carriage of passengers the lower rate of fare fixed by said ordinance, Exhibit "A;" that said ordinance was duly approved by the mayor of said city, and is claimed by said City of Detroit to be now in full force and operation.

That on the sixteenth day of August, 1899, the common council of said city of Detroit also adopted a further and other ordinance entitled "An ordinance to require the Detroit Citizens' street railway, its successors and assigns, to keep on sale and to sell eight tickets for twenty-five cents and to give transfers to passengers from the lines of street railway operated by said company in the city of Detroit;" a copy of said ordinance is hereby attached, marked Exhibit "B," and hereby made a part of this bill of complaint; that by the terms of said Exhibit "B" the said City of Detroit undertook to require that your orator should keep on sale in its cars in service at all times on all lines operated by it tickets to be sold in strips or packages of eight tickets for twenty-five cents, each of which tickets should be accepted by your orator, its successors and assigns, for a single ride for any distance, in either direction, over the line — route operated by your orator on any car on which it should be presented, and that any passenger presenting such ticket should be entitled to a transfer ticket good for a continuous ride over any

other line or route operated by your orator, if the same is presented on the next regular — of such other route within fifteen minutes after such passenger shall leave the car on which he received such transfer ticket; that said ordinance was duly approved by the mayor of said city, and is now claimed by said City of Detroit to be in
24 full force and operation; that your orator is now operating under a lease the lines of street railway constructed and owned by the Detroit, Fort Wayne & Belle Isle railway, which said lines were constructed by said company under the original contract and grant of January 31st, 1865, of like force and effect between the said City of Detroit and the predecessors and grantors of the said Detroit, Fort Wayne & Belle Isle railway, and by the terms of which the grantees therein named and their successors and assigns were entitled to charge the same rates of fare therein named and fixed, to wit, five cents for each single fare; that by the terms and provisions of said ordinance, Exhibit "B," the said City of Detroit undertook to change and reduce the rates of fare which your orator or its grantors and lessors would be entitled to charge over the route which it operates under its lease of the said Detroit, Fort Wayne & Belle Isle railway, as also the rates of fare which it would be entitled to charge over the lines and routes of railway owned and operated by it and the other lines and routes operated by it under lease without the consent of the said several grantees and companies or your orator, its lessee; that the said lines and routes so owned by the said Detroit, Fort Wayne and Belle Isle railway and so leased are not now and never have been a part of the system of your orator or operated in connection therewith or as a route thereof, but always have been and now are operated as a wholly separate and distinct system; that under and by virtue of its rights as lessee it is entitled to have and receive for the transportation of passengers over the said leased lines the rates of fare fixed by the terms of the various contracts and grants between the said City of Detroit and
25 the said Detroit, Fort Wayne and Belle Isle railway and its grantors and predecessors.

15. That neither your orator nor any of its grantors, predecessors, or lessors have agreed or consented to any change or modification in the terms of the said various grants and franchises fixing the rates of fare, nor have they or either of them ever consented to or accepted said ordinances, Exhibits A, B, C, D, and E, but, on the contrary, allege that the same were passed without their solicitation, approval, or consent.

16. That the contract privileges and grants so as aforesaid granted to and made with your orator's several grantors, assignors, and lessors have been validly extended for periods of which considerable portions have yet to run; and the same are now in full force and effect.

17. Your orator further alleges upon information and belief that the said City of Detroit in the enactment of the said ordinances, Exhibits A, B, C, D, and E and "B 2," hereto attached and made a part of this bill, assumed to enact the same in the exercise of legislative power claimed to have been conferred on it by the State of

Michigan by the charter of said city and by the terms and provisions of chapters 94 and 95 of Howell's Annotated Statutes of Michigan, permitting the construction, maintenance, and operation of street railways in the streets of said city.

18. Your orator further alleges that it is entitled, under and by virtue of the terms of the various contracts and grants hereinbefore stated, to charge the rates of fare fixed and agreed upon therein without the impairment or reduction by — without your orator's consent; that the ordinances Exhibit- A, B, C, D, and E impair the obligation of said contract and the rights of your orator thereunder, and are therefore void as being in contravention of section 10 of article I of the Constitution of the United States, in this, that they impair the obligation of the contracts hereinbefore recited and set forth, touching the rates of fare which your orator is entitled to have and receive for the carriage of passengers.

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19. Your orator further shows unto the court that as owner and lessee it is now engaged in the operation of upwards of one hundred and thirty-five miles of street railways in the streets of the city of Detroit; that in such operation it has in use upwards of four hundred street cars, which are propelled by electricity, and has in its employ, engaged in such operation, upwards of one thousand men as motormen and conductors; that it carries an average of — thousand passengers per day over the lines owned and operated by it; that under and by virtue of the provisions of said ordinances, Exhibits A, B, C, D, and E, and the obligation of your orator to carry such passengers as may offer themselves for carriage, it will be subjected to innumerable demands upon the part of the travelling public to sell to such persons as may make such demands tickets in accordance with the provisions of said ordinances, Exhibits A, B, C, D, and E, and to issue as provided and required thereby, and to accept and carry such passengers and transfer the same at the rates of fare fixed by said ordinances; that on your orator's refusal to comply with such demands and requests your orator may be subjected to numerous actions at law by persons so refused and to annoyance, litigation, and loss by reason thereof; that the said City of Detroit will seek and now seeks and threatens and intends by such power and authority as it may possess and by vexatious legal proceedings to compel your orator to comply with the provisions of said ordinances, Exhibits A, B, C, D, and E, and as a result your orator will be put to great loss, damage, hindrance, and annoyance in the transaction of its business, which it is entitled to carry on without such suits, litigation, actions, annoyance, hindrance, loss, and damage.

27

20. That, in full reliance upon its right to charge the full rates of fare fixed by the various contracts and grants hereinbefore referred to and for the purpose of procuring such money as it was necessary that it should have for the construction, maintenance, repairing, and reconstruction and operation of the various lines of railway hereinbefore described, it issued its bonds and borrowed thereon the money so needed; that your orator and its predecessors and lessors

have issued for the purposes aforesaid bonds amounting in the aggregate to eight millions two hundred thousand dollars, payable in gold coin, with semi-annual interest at the rate of five per cent. per annum; that many of said bonds mature and will be due and payable within the next three years, and it will be necessary for your orator to borrow a considerable amount of money to assist in the payment and retirement of said bonds, by the issue of bonds of the same character; that all of said bonds outstanding are secured by mortgages given at various dates, by
28 the terms of which all of the property, rights, privileges, and franchises of your orator, its lessors and predecessors, including the franchises or rights fixed by the said various contracts and grants to charge the rates of fare therein named, together with all the tolls, fares, issues, earnings, and profits arising therefrom, have been mortgaged to trustees therein named for the use and benefit and security of the holders of such bonds; that said bonds have been sold to parties purchasing the same in the full faith and belief that your orator, its lessor- and predecessors and grantors, had the right to charge the full rates of fare fixed by the various contracts and grants without any right upon the part of said City of Detroit or of any other person, corporation, or authority to interfere with, lessen, reduce, or impair the same, and, the said right to have and receive the rates of fare so fixed being so mortgaged as a part of the security for the payment of said bonded indebte ness, the action of said city by the adoption of the ordinances, Exhibits "A" and "B," is an impairment of the obligation of said contract as against the rights of said bondholders under and by virtue of the security created by said various mortgages and in contravention of said section 10 of article 1 of the Constitution of the United States.

And your orator further shows that the said City of Detroit attempts and intends under said several ordinances of August 16th, 1899, not only to illegally reduce the fare which your orator now is entitled to and does receive under its said several grants and contracts with said city, but also to impose illegal transfers upon your orator, and thereby to compel your orator to carry many persons
29 long distances on all lines or routes of street railway operated by it without receiving any consideration therefor, contrary to the terms of its grants, contracts, privileges, and franchises, all of which matters and things your orator charges are against the just rights of your orator and contrary to equity and good conscience and the constitutional right of your orator to the unimpaired enjoyment of its said several grants, contracts, franchises, and privileges.

Your orator further shows that the said City of Detroit is a citizen of the State of Michigan and a resident of the eastern district and southern division thereof, and that William C. Maybury is the mayor of said city, and is a citizen of the State of Michigan and a resident of the eastern district and southern division thereof, and that Charles Flowers is the corporation counsel of the said city of

Detroit and a citizen of the State of Michigan and a resident of the eastern district, southern division thereof, and that it makes the said City of Detroit, William C. Maybury, and Charles Flowers defendants to this its bill of complaint.

Your orator further alleges that the matter in dispute between the parties in this suit exceeds the sum of ten thousand dollars, exclusive of interest and costs, and arises under the Constitution of the United States.

Forasmuch, therefore, as your orator is not relievable in the premises by the strict rules of law, and to the end that your orator may have adequate and proper relief in the premises, your orator prays your honors that the said pretended ordinances of August 16th, 1899, and each and every of them be declared to impair the obligations of said grants, contracts, rights, and privileges of your
30 orator, contrary to the provisions of article I, section 10, of the Constitution of the United States, and therefore to be wholly and utterly null and void and of no force and effect, and that the said City of Detroit, its common council, its corporation counsel, and each and every of its officers, agents, counselors, and attorneys be perpetually restrained and enjoined from in any manner whatsoever, either by means of suits or actions or otherwise, enforcing or attempting to enforce or carry out the provisions of said pretended ordinance, of August 11th, 1899, or either of them or of any of the provisions therein.

And that in the meantime and until the further order of this court the said City of Detroit and its corporation counsel and other counsellors, agents, and attorneys, and each and every of them be restrained and enjoined as above prayed, and that your orator may have such other and further relief in the premises as to your honors may seem just and agreeable to equity and good conscience.

May it please the court to grant unto your orator the writ of subpœna to be directed to the said City of Detroit, William C. Maybury, the mayor thereof; Charles Flowers, its corporation counsel, commanding them and each of them, at a certain day and under a certain penalty therein to be specified, personally to be and appear before this honorable court, then and there to answer all and singular the premises and to stand to and abide by such order and decree therein as to the court will seem meet.

And may it please the court to grant unto your orator the people's writ of injunction to be directed to the said City of Detroit, William C. Maybury, its mayor; and Charles Flowers, the corporation
31 counsel thereof, restraining and enjoining them and each of them and all and each of its and their solicitors, attorneys, counsellors, agents, and servants from in any manner whatever, either by means of suits or otherwise, enforcing or attempting to enforce or carry out the provisions of all or any of said pretended

ordinances of August 11th, 1899, or any or either of them or any portion of them until the further order of said court.

And your orator will ever pray, etc.

DETROIT CITIZENS' STREET RAILWAY COMPANY,
By ALBERT E. PETERS, *Secretary.*

[SEAL.]

Attest: ALBERT E. PETERS, *Secretary.*

BRENNAN, DONNELLY & VAN DE MARK,
Solicitors for Complainant.
HENRY H. DUFFIELD,
FRED A. BAKER, *Of Counsel.*

STATE OF MICHIGAN, } ss:
Eastern District of Michigan, County of Wayne, }

On this sixteenth day of August, A. D. 1899, before me, a notary public in and for said county, personally appeared Albert E. Peters and made oath that he is the secretary of the complainant in the foregoing bill of complaint, and has authority to file said bill and commence and prosecute said cause on its behalf, and that he has read said bill of complaint and know the contents of the same; that he has information as to all the matters stated in said bill and from such information believes such matters to be truly stated
32 therein and that such bill is true; that all matters in said bill stated positively and not on information or belief are true to his knowledge, and that all matters therein stated on information or belief he is informed and believes are true.

ALEXANDER MUNRO,
Notary Public, Wayne County, Michigan.

EXHIBIT "A."

An ordinance to amend an ordinance of the city of Detroit, approved November 14, 1879, entitled "An ordinance supplementary to an ordinance entitled 'An ordinance to permit certain persons to establish and locate certain railways in the city of Detroit,' approved November 24, 1862, and the amendments thereto, and for other purposes," by adding a new section thereto to stand as section 6*a*.

It is hereby ordained by the people of the city of Detroit:

SECTION 1. That the ordinance of said city, approved November 14, 1879, entitled "An ordinance supplementary to an ordinance entitled 'An ordinance to permit certain persons to establish and locate certain railways in the city of Detroit,' approved November 24, 1862, and the amendments thereto, and for other purposes," be, and the same is hereby amended by adding thereto a new section to stand as section 6*a*, and read as follows:

SECTION 6*a*. That the Detroit Citizens' Street Railway Company, its

successors and assigns, shall keep on sale on its cars in service
33 at all times tickets to be sold in strips or packages of eight tickets for twenty-five cents, each of which tickets shall be accepted by said railway company, its successors and assigns for a single ride for any distance in either direction over the lines or routes operated by said railway company, its successors and assigns, on a car on which it is presented, and a passenger presenting such ticket, or upon payment of one single fare charged by said company, shall be entitled to a transfer ticket good for a continuous ride over any other line or route of said company, provided such transfer ticket is presented on the next regular car of such other route within fifteen minutes after such passenger leaves the car on which he received said transfer ticket.

This ordinance shall not be construed to affect in any manner the line or lines of street railway owned by the Detroit Railway Company.

SEC. 2. This ordinance shall take immediate effect.

EXHIBIT "B 2."

An ordinance to amend an ordinance of the city of Detroit, approved June 30, 1880, entitled "An ordinance supplementary to an ordinance passed January 31, 1865, entitled 'An ordinance to permit certain persons to establish and locate a street railway in and through certain streets of the city of Detroit,' and the amendments thereto, and for other purposes," by adding a new section thereto, to stand as section 4*a*.

34 It is hereby ordained by the people of the city of Detroit:

SECTION 1. That the ordinance of said city, approved June 30, 1880, entitled "An ordinance supplementary to an ordinance passed January 31, 1865, entiled 'An ordinance to permit certain persons to establish and locate a street railway in and through certain streets of the city of Detroit,' and the amendments thereto, and for other purposes," be, and the same is hereby amended by adding thereto a new section to stand as section 4*a*, and read as follows:

SECTION 4*a*. That the street railway company, operating said road, its successors and assigns, shall keep on sale on its cars in service, at all times, tickets to be sold in strips or packages of eight tickets for twenty-five cents, each of which tickets shall be accepted by said railway company, its successors and assigns, for a single ride for any distance in either direction over the lines or routes operated by said railway company, its successors and assigns, on a car on which it is presented, and a passenger presenting such ticket, or upon payment of one single fare charged by said company, shall be entitled to a transfer ticket good for a continuous ride over any other line or route of said company, provided such transfer ticket is presented on the next regular car of such other route within fifteen minutes after such passenger leaves the car on which he received said transfer ticket.

This ordinance shall not be construed to affect in any manner the

line or lines of street railway owned by the Detroit Railway Company.

SEC. 2. This ordinance shall take immediate effect.

35 EXHIBIT C.

An ordinance to amend an ordinance of the city of Detroit, approved December 3, 1885, entitled "An ordinance extending the charter of the Grand River Street Railway Company and providing for the payment of a tax by said company," by adding a new section thereto to stand as section 3*a*.

It is hereby ordained by the people of the city of Detroit:

SECTION 1. That the ordinance of said city, approved December 3, 1885, entitled, "An ordinance extending the charter of the Grand River Street Railway Company and providing for the payment of a tax by said company," be, and the same is hereby, amended by adding thereto a new section to stand as section 3*a*, and read as follows:

SEC. 3*a*. That the Detroit Citizens' Street Railway Company, its successors and assigns, shall keep on sale on its cars in service, at all times, tickets to be sold in strips or packages of eight tickets for twenty-five cents, each of which tickets shall be accepted by said railway company, its successors and assigns, for a single ride for any distance in either direction over the lines or routes operated by said railway company, its successors and assigns, on a car on which it is presented, and a passenger presenting such ticket, or upon payment of one single fare charged by said company, shall be entitled to a transfer ticket good for a continuous ride over any other line or route of said company, provided such transfer ticket is presented on the next regular car of such other route within fifteen minutes after such passenger leaves the car on which he received said transfer ticket.

36 This ordinance shall not be construed to affect in any manner the line or lines of street railway owned by the Detroit Railway Company.

SEC. 2. This ordinance shall take immediate effect.

EXHIBIT "D."

Read twice by title, ordered printed, and laid on the table.

An ordinance to amend an ordinance of the city of Detroit, approved April 17, 1886, entitled "An ordinance to permit certain persons to establish and locate a street railway in and along the following streets: Commencing at the intersection of Baker and Twenty-fourth streets, thence along and through Twenty-fourth street to the Dix road, and along said Dix road to the city limits," by adding a new section thereto, to stand as section 22*a*.

It is hereby ordained by the people of the city of Detroit:

SECTION 1. That the ordinance of said city, approved April 17,

1886, entitled "An ordinance to permit certain persons to establish and locate a street railway in and along the following streets: Commencing at the intersection of Baker and Twenty-fourth streets, thence along and through Twenty-fourth street to the Dix road, and along said Dix road to the city limits," be, and the same is hereby, amended by adding thereto a new section, to stand as section 22*a*, and read as follows:

37 SEC. 22*a*. That the Detroit Citizens' Street Railway Company, its successors and assigns, shall keep on sale on its cars in service, at all times, tickets to be sold in strips or packages of eight tickets for twenty-five cents, each of which tickets shall be accepted by said railway company, its successors and assigns, for a single ride for any distance in either direction over the lines or routes operated by said railway company, its successors and assigns, on a car on which it is presented, and a passenger presenting such ticket, or upon payment of one single fare charged by said company, shall be entitled to a transfer ticket good for a continuous ride over any other line or route of said company, provided such transfer ticket is presented on the next regular car of such other route within fifteen minutes after such passenger leaves the car on which he received said transfer ticket.

This ordinance shall not be construed to affect in any manner the line or lines of street railway owned by the Detroit Railway Company.

SEC. 2. This ordinance shall take immediate effect.

EXHIBIT "E."

An ordinance to amend an ordinance of the city of Detroit, approved July 13, 1886, entitled "An ordinance to authorize the Highland Park Railway Company, its successors and assigns, a body corporate organized under the laws of the State of

38 Michigan, to construct, maintain, and operate a railway on Woodward avenue between the railroad crossing and the northern city limits," by adding a new section thereto to stand as section 20*a*.

It is hereby ordained by the people of the city of Detroit:

SECTION 1. That the ordinance of said city approved July 13, 1886, entitled "An ordinance to authorize the Highland Park Railway Company, its successors and assigns, a body corporate, organized under the laws of the State of Michigan, to construct, maintain and operate a railway on Woodward avenue, between the railroad crossing and the northern city limits," be, and the same is hereby amended by adding thereto a new section to stand as section 20*a*, and read as follows:

SECTION 20*a*. That the Detroit Citizens' Street Railway Company, its successors and assigns, shall keep on sale on its cars in service, at all times, tickets to be sold in strips or packages of eight tickets for twenty-five cents, each of which tickets shall be accepted by said railway company, its successors and assigns, for a single ride for any

distance in either direction over the lines or routes operated by said railway company, its successors and assigns, on a car on which it is presented, and a passenger presenting such ticket, or upon payment of one single fare charged by said company, shall be entitled to a transfer ticket good for a continuous ride over any other line or route of said company, provided such transfer ticket is presented on the next regular car of such other route within fifteen minutes after such passenger leaves the car on which he received said transfer ticket.

This ordinance shall not be construed to affect in any manner the line or lines of street railway owned by the Detroit Railway Company.

SEC. 2. This ordinance shall take immediate effect.

EXHIBIT "B."

An ordinance to require the Detroit Citizens' Street Railway Company, its successors and assigns, to keep on sale and to sell eight (8) tickets for twenty-five cents (25c.), and give transfers to passengers upon the lines of street railway operated by the said company in the city of Detroit.

It is hereby ordained by the people of the city of Detroit:

SECTION 1. That the Detroit Citizens' Street Railway Company, its successors and assigns, shall keep on sale on its cars in service at all times, tickets to be sold in strips or packages of eight (8) tickets for twenty-five cents (25c.); each of which tickets shall be accepted by said railway company, its successors and assigns, for a single ride for any distance in either direction, over the lines or routes operated by the said railway company, its successors or assigns, on a car on which it is presented; and any passenger presenting such ticket or upon payment of one single fare charged by said company, shall be entitled to a transfer ticket good for a continuous ride over any other line or route operated by said company, provided such transfer ticket is presented on the next regular car of such other route within fifteen (15) minutes after such passenger leaves the car on which he received such transfer ticket. This ordinance shall not be construed to affect any lines or routes of street railways now owned by the Detroit Railway Company.

SEC. 2. This ordinance shall take immediate effect.

Security for Costs.

Afterwards, to wit, and now, on this day—that is to say, on Aug. 16, 1899—comes the said complainant, by its said solicitor, and files in said court security for costs in said case; which security for costs is in words and figures following, to wit:

We hereby become security for all costs for which the complainant may become liable in within cause.

JOHN C. DONNELLY.
J. C. HUTCHINS.

16th August, 1899.

41 *Subpœna.*

Afterwards, to wit, and now, on this day—that is to say, on August 16, 1899—a writ of subpœna was duly issued out of and under the seal of said court; which writ of subpœ-, with due proof of service thereof, was returned and filed August 25, 1899, in words and figures following, to wit:

Circuit Court of the United States of America for the Sixth Circuit and Eastern District of Michigan, Southern Division, Sitting in Chancery.

The President of the United States of America to the City of Detroit, William C. Maybury, mayor; Charles F. [SUBPŒNA SEAL.] Flowers, corporation counsel, citizens of the State and residents of the eastern district of Michigan & southern division thereof:

You are hereby commanded to be and appear in the circuit court of the United States of America for the sixth circuit and eastern district of Michigan, sitting in chancery, before the judges thereof, at the district court room, in the city of Detroit, on the first Monday of October next ensuing, then and there to answer unto a bill of complaint exhibited against you as defendants by Detroit Citizens' Street Railway Company as complainant; and this you shall in nowise omit under the penalty of one thousand dollars.

Witness the Hon. Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this sixteenth day of August, in the year of our Lord one thousand eight hundred and ninety-nine, and
42 of the Independence of the United States the one hundred and twenty-fourth.

WALTER S. HARSHA, *Clerk*,
By ADELAIDE ANDERSON VOORHEIS,
Deputy Clerk.

MEMORANDUM.—The above-named defendants are required to enter their appearance in this suit with the clerk of this court, at his office, in the city of Detroit, on or before the day on which this writ of subpœna is returnable; otherwise the bill of complaint in this cause will be taken *pro confesso* against said defendant.

WALTER S. HARSHA, *Clerk*,
By ADELAIDE ANDERSON VOORHEIS,
Deputy Clerk.

EASTERN DISTRICT OF MICHIGAN, *ss:*

I hereby certify and return that on the seventeenth day of August, A. D. 1899, I served the within writ on The City of Detroit, William C. Maybury, mayor, and Charles Flowers, corporation counsel, defendants within named, at Detroit, in said district, by delivering to each personally a true copy thereof, also exhibiting this writ with the seal of the court impressed thereon, service upon the City of Detroit

being made by delivering to Howard Beck personally a true copy thereof, also exhibiting this writ with the seal of the court impressed thereon, said copies having like memorandum appended thereto as is hereto appended.

WM. R. BATES,
U. S. Marshal,
By C. P. TAYLOR, *Deputy.*

43 *Restraining Order.*

And afterwards, to wit, and now, on this day—that is to say, on August 16th, 1899—the court granted a restraining order in said cause, a memorandum of which was duly entered by the clerk in the journal of the proceedings of said court; which memorandum is in words and figures following, to wit:

At a session of the circuit court of the United States for the eastern district of Michigan, continued and held, pursuant to adjournment, at the district court room, in the city of Detroit, on Wednesday, the sixteenth day of August, in the year one thousand eight hundred and ninety-nine.

Present: The Hon. Henry H. Swan, district judge.

THE DETROIT CITIZENS' STREET RAILWAY Company, a Corporation, etc., *v.* THE CITY OF DETROIT, WILLIAM C. MAYBURY, and Charles Flowers. } In Equity. No. 3631.

Whereas in the above-named cause it has been made to appear upon the bill of complaint filed herein and the exhibits annexed thereto that a writ of injunction preliminary to the final hearing is proper, and that *prima facie* the complainant is entitled thereto to enjoin the defendants therein from the acts complained of and threatened to be committed:

44 Now, on motion of said complainant, it is ordered that the defendants appear before the circuit court of the United States for the eastern district of Michigan, in the sixth circuit, at the court-room of said court, at Detroit, upon the fourth day of September, 1899, at 10 o'clock a. m. of said day, and then and there show cause, if any they have, why the preliminary injunction therein prayed should issue; and it appearing to the undersigned that there is danger of irreparable injury being caused to the complainant before the hearing of said application for the preliminary writ of injunction can be heard unless the said defendants are, pending such hearing, restrained as hereinafter set forth, therefore complainant's application for such restraining order is granted.

Now, therefore, it is ordered that you, the said The City of Detroit, William C. Maybury, and Charles Flowers, defendants herein, your agents, servants, and attorneys and all persons acting by or under your authority or direction, be, and you are hereby, specially restrained and enjoined from in any manner whatever, either by

means of suits or actions or otherwise, enforcing or attempting to enforce or carry out the provisions of all or any of certain pretended ordinances of the common council of the city of Detroit of August sixteenth, 1899, referred to in the bill of complaint in this cause, copies whereof are annexed thereto, or any or either of them or any portion of them until the further order of said court.

This order is granted in the absence from said district and circuit of the circuit justice of the court and the judges of the circuit
45 court of appeals, and the complainant therefore has not had a reasonable time to apply to the circuit court for the writ.

It is further ordered that a copy of this order, certified under the hand of the clerk and the seal of this court, together with a copy of the bill of complaint herein, be served on each of the defendants to be restrained thereby.

Dated at Detroit, in the eastern district of Michigan, this sixteenth day of August, 1899.

Præcipe for Appearance.

Afterwards, to wit, and now, on this day—that is to say, on August 17, 1899—come the defendants, The City of Detroit, William C. Maybury, and Charles Flowers, by their solicitor, Charles Flowers, and file in said court a præcipe for appearance of said defendants; which præcipe is in words and figure following, to wit:

In the Circuit Court of the United States for the Eastern District of Michigan, Southern Division. In Equity.

THE DETROIT CITIZENS' STREET RAILWAY COMPANY
v.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, and Charles Flowers. } No. 3631.

46 To the clerk:

Let the appearance of the defendants, The City of Detroit, William C. Maybury, and Charles Flowers, be entered herein, together with the usual order requiring service of a copy of the bill, etc.

August 17th, 1899.

CHARLES FLOWERS,
Solicitor for Defendants, The City of Detroit and Charles Flowers and William C. Maybury.

1006 Majestic bldg., Detroit, Mich.

Entry of Appearance.

Afterwards, to wit, and now, on this day—that is to say, on August 17, 1899—the appearance of said defendants was duly entered by the clerk in the chancery order book kept in his office; which entry is in words and figures following, to wit:

In the Circuit Court of the United States for the Eastern District of Michigan, Southern Division. In Equity.

THE DETROIT CITIZENS' STREET RAILway Company
v.
THE CITY OF DETROIT, WILLIAM C. Maybury, and Charles Flowers.
} No. 3631. Aug. 17, 1899.

47 On filing præcipe in this cause, and on motion of Charles Flowers, Esq., solicitor for defendants, it is ordered that the appearance of said defendants be, and the same is hereby, entered herein; and, on like motion, it is further ordered that the complainant or its solicitors deliver a copy of the bill of complaint to the solicitor for said defendants within twenty (20) days after service of notice of this order, and that in default thereof that said bill be dismissed, with costs, as to said defendants.

WALTER S. HARSHA, *Clerk.*

Proof of Service of Bill, Notice for Injunction, and Restraining Order.

Afterwards, to wit, and now, on this day—that is to say, on August 25, 1899—a proof of service of the bill of complaint, notice of injunction, and restraining order was filed by the marshal; which proof of service is in words and figures following, to wit:

EASTERN DISTRICT OF MICHIGAN, *ss:*

I hereby certify and return that on the seventeenth day of August, A. D. 1899, I served the within bill of complaint, notice for injunction, and temporary restraining order on The City of Detroit,
48 William C. Maybury, mayor, and Charles Flowers, corporation counsel, defendants within named, at Detroit, in said district, by delivering to each personally a true copy thereof, also exhibiting the seal of the court impressed thereon, service upon the City of Detroit being made by delivering to Howard Beck personally true copies thereof, with the seal of the court impressed thereon.

WM. R. BATES, *Marshal,*
By C. P. TAYLOR, *Deputy.*

Answer to Order to Show Cause why Preliminary Injunction Should not Issue.

Afterwards, to wit, and now, on this day—that is to say, on September 4, 1899—come the said defendants, by their said solicitor, and file in said court their answer to order to show cause; which answer is in words and figures following, to wit:

Circuit Court of the United States for the Eastern District of Michigan, Southern Division. In Equity.

THE DETROIT CITIZENS' STREET RAILWAY COMPANY, a Corporation, Complainant,
v.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, and Charles Flowers, Defendants. } No. 3631.

In obedience to the order heretofore, on the 16th day of August, A. D. 1899, made and entered therein requiring said defend-
49 ants to show cause, if any, why the preliminary injunction therein prayed should not issue, for cause therefor these defendants submit the affidavit of Charles Engelhard, together with the copies of the ordinances of said city of Detroit annexed thereto and made a part thereof.

CHARLES FLOWERS,
Solicitor for Defendants.

T. E. TARSNEY, *Of Counsel.*

Circuit Court of the United States for the Eastern District of Michigan, Southern Division. In Equity.

THE DETROIT CITIZENS' STREET RAILWAY COMPANY, a Corporation, Complainant,
v.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, and Charles Flowers, Defendants. } No. 3631.

STATE OF MICHIGAN, }
County of Wayne, } *ss:*

Charles Engelhard, being duly sworn, deposes and says that Exhibit "A," which is hereto annexed and made a part hereof, contains a true and complete copy of all of the ordinances heretofore made and passed by the common council of said city of Detroit in
50 relation to the several street railway companies named therein, except the ordinance of said city approved August 16, 1899, which said last-named ordinance is fully stated and set forth in the bill of complaint filed herein.

And further says not.

CHARLES ENGELHARD.

Subscribed and sworn to before me this 1st day of September, A. D. 1899.

NELLIE GAHAGAN,
Notary Public in and for Wayne County, Michigan.

EXHIBIT "A."

"An ordinance to permit certain persons to establish and locate certain railways in the city of Detroit," approved November 24th, 1862, and the amendments thereto.

Whereas, Cornelius S. Bushnell, Nehemiah D. Sperry, Eben N. Wilcox, their associates, successors and assigns, propose to organize as a body politic and corporate under a charter from the legislature of Michigan, or under the "Act to provide for the construction of train railways," approved February 13, 1855 (Laws of 1855, p. 338), an act or acts amendatory thereto, for the purpose of constructing and operating in and through the streets of the city of Detroit, city or street railways; therefore,

Be it ordained by the common council of the city of Detroit:

SECTION 1. That consent, permission and authority is hereby given, granted and duly vested in Eben N. Wilcox and his
51 associates, who may be approved by the council, their successors and assigns, organized into a corporation, under the laws of the State of Michigan, as aforesaid, to lay a single or double track for a railway, with all the necessary and convenient tracks for turnouts, side tracks and switches, in and along the course of the streets of, and bridges in, the city of Detroit, hereinafter mentioned, and the same to keep, maintain and use, and to operate thereon railway cars and carriages, during all the term hereinafter specified and described, and in the manner and upon the condition set forth in this ordinance. (As amended December 27, 1862.)

SECTION 2. The said grantees are, by the provisions of this ordinance, exclusively authorized to construct and operate railways as herein provided, on and through Jefferson, Michigan and Woodward avenues, Witherell, Gratiot, Grand River, and Brush or Beaubien streets, to Atwater street; and from Jefferson avenue, at its intersection with Woodbridge street, to Third street; up Third street to Fort street; and through Fort street, to the western limits of the city; and through such other streets and avenues in said city, as may, from time to time, be fixed and determined by the vote of the common council of the said city of Detroit, and assented to, in writing by said corporation, organized as provided in section first of this ordinance: And provided, the corporation does not assent in writing, within thirty days after the passage of said resolution of the council, ordering the formation of new routes, then the common council may give the privilege to any other company to build such route, and such other company shall have the right to cross any track of rails already laid, at their own cost and expense:
52 Provided, always, that the railways on Grand River street, Gratiot street and Michigan avenue, shall each run into and connect with the Woodward Avenue railways, in such direction that said railways shall be continued down to, and form each of them, one continuous route to Jefferson avenue: Provided, always, that said railroad down Gratiot street may be continued to Woodward

avenue, through State street, or through Randolph street, and Monroe avenue and the Campus Martius, as the grantees, or their assigns, under this ordinance, may elect. (As amended January 12, 1863.)

SECTION 3. The railways through all the streets shall be laid in the center thereof, if on a single track, and if on a double track, the inside rail of each track shall be laid a sufficient distance from the center of the street to enable two cars to pass on opposite tracks, and leave a space between of at least eighteen inches, and so as to accommodate the most common width of carriage wheels: Provided, however, that where a double track shall not be laid in the first instance, and a second track shall afterwards be required, such second track may be laid upon either side of the first: And provided further, that in all streets which are not paved or where plank roads are laid, the tracks of said railways may be laid elsewhere than in the center thereof, as may be most convenient, under the direction of the common council, and shall least obstruct the public travel thereon. When the grantees shall complete one track of said railway, and place cars thereon for public use, they may, at any time thereafter, build a second track, so that they do not interrupt the running of their cars on the first completed track: Provided, the consent of the common council is first obtained. (As amended
53 January 11, 1875.)

SECTION 4. The track of said railways shall be laid of such rails as shall least obstruct the free passage of vehicles or carriages over the same; and the upper surface of the rails shall be laid flush with the surface of the streets, and shall conform to the grades thereof, as now established, or as they shall, from time to time, be re-established or altered; and in case of grading, paving or otherwise, if it be necessary to relay said rails, the same shall be done at the expense of the grantees; and in all streets or parts of streets, which are not paved, the rails shall be laid in such manner as shall least interfere with the public travel thereon, and as shall be authorized and approved by the city engineer. The grantees, and their assigns, shall be required to keep the surface of the streets, inside the rails, and for two feet four inches outside thereof, in good order and repair, and all snow, ice, dirt, filth, cleared and removed from the same at the expense of the grantees: Provided, however, that upon the paved portions of said streets the materials for repairing shall be supplied at the expense of the city. (As amended January 12, 1863.)

SECTION 5. The routes of all said railways shall commence in the Woodward Avenue road, at Campus Martius; from thence running on their several courses to the outer limits of the city: Provided, that in collecting fare, those portions between Atwater through Brush or Beaubien streets, and through Woodward avenue to Jefferson avenue, and between Brush or Beaubien and Third streets, on Jefferson avenue and Woodbridge street, shall be respectively deemed to belong to either of the above routes, any portion of which is then being travelled continuously by any one passenger at
54 the same time, shall pay only one fare. (As amended January 12, 1863.)

SECTION 6. Said railway on Woodward avenue, or Witherell street, to Park lot sixty-two, through Jefferson avenue to the eastern limits, and through Jefferson avenue to Woodbridge, through Woodbridge to Third, and up Third to Fort, and through Fort street to the western limits of the city, shall be completed within six months from the thirty-first day of March, A. D. 1863; and through Gratiot street to the easterly line of the B. Chapoton farm, shall be completed within three years from and after the 31st day of March, A. D. 1863; and through Grand River to the easterly line of the Woodbridge farm; through Michigan avenue to Thompson street, shall be completed within two years from and after the thirty-first day of March, A. D. 1863; and the remainder thereof at such times as the public necessity may require: Provided, that no such railway shall be required to be laid through any part of such routes, which shall not be worked up to the established grade thereof, until the city shall have completed such work.

SECTION 7. The cars to be used on said railways shall be drawn by animals only, at a speed not exceeding the rate of six miles per hour, and shall be run as often as public convenience shall require, and the common council shall prescribe: Provided, always, that said common council will not require them to run regular cars oftener than once in twenty minutes during fourteen hours every day, from the fifteenth day of April to the fifteenth day of October, and twelve hours every day from the fifteenth day of October to the fifteenth day of April; and the cars in use upon said railways
55 shall be run for no other purpose than to transport passengers and their ordinary baggage, and the cars and carriages for that purpose shall be of the best style in use on such railways: Provided, that other cars and carriages may be used for cleaning said railway tracks from obstructions by snow or otherwise.

SECTION 8. The rate of fare for any distance shall not exceed five cents in any one car, or on any one route named in this ordinance, except where cars or carriages shall be chartered for specific purposes: Provided, cars so chartered shall not be considered regular cars, within the meaning of the preceding section.

SECTION 9. Cars drawn in the same direction shall not approach each other within a distance of one hundred feet, except in cases of accident or at stations, or for the purpose of connecting two cars together.

SECTION 10. No car shall be allowed to stop on a cross-walk, or in front of any intersecting street, except to avoid collision or prevent danger to persons or property in the street.

SECTION 11. When the conductor of any car is required to stop at the intersection of streets to receive or leave passengers, the car shall be stopped so as to leave the rear platform slightly over the crossing.

SECTION 12. The grantees, or their assigns, shall employ careful, sober and prudent agents, conductors and drivers, to take charge of their cars while on the road, and it shall be the duty of all such agents, conductors and drivers, to keep vigilent watch for all trains, carriages or persons on foot, and especially children, either
56 upon the track or moving towards it; at the first appearance ofdanger to such teams, carriages, footmen or children, or

other obstructions, the cars shall be stopped in the shortest time and space possible.

SECTION 13. Conductors shall not allow ladies or children to enter or leave the cars while in motion.

SECTION 14. Conductors shall announce to the passengers the names of the principal squares and streets, as the cars reach them.

SECTION 15. The cars shall, at all times, be entitled to the track, and any vehicle upon the track of said railways shall turn out when any car comes up, so as to leave the track *on*obstructed, and the drivers of any vehicle refusing to do so, shall be liable to a fine not exceeding five dollars, on conviction before the recorder's court of said city of Detroit, and costs of prosecution shall not be at the expense of the city.

SECTION 16. The cars, after sunset, shall be provided with colored signal lights, a red light in front, and a green light in the rear.

SECTION 17. Wherever gas, or water pipes or sewers are now laid in the streets herein specified, and through which railways are to pass, the said railways must be laid down and maintained subject to the right now in the city, and the gas company and the board of public works, to take up or remove said pipes or sewers, in such manner as not unnecessarily to damage or injure said railways or their use, without claim against the city, gas company, or board of public works; and the common council expressly reserves to
57 itself the right hereafter to lay down, or permit to be laid down, and repaired in said streets, gas or water pipes, and sewers, whenever the public or private convenience may require; the said gas or water companies, or private individuals, who shall take up pavement for the purposes aforesaid, being always required, as by the present city ordinance, to restore the pavement in the streets to its former condition.

SECTION 18. If said grantees, or their assigns, shall fail to complete any of the aforesaid railways within the time prescribed by this ordinance, then the rights and privileges herein granted, shall be forfeited as to any and every route herein established, which is not commenced and completed in the time herein prescribed, and the city shall be entitled to take possession thereof, provided the council does not extend the time: Provided, that if said grantees are delayed by the order or injunction of any court, and said order or injunction shall not be obtained at the instance or by the contrivance of said grantees, then the time of such delay shall be excluded from the time of completion prescribed in this ordinance. (As amended December 27, 1862.)

SECTION 19. It is hereby reserved to the common council of the city of Detroit, the right to make such further rules, orders or regulations, as may from time to time be deemed necessary to protect the interest, safety, welfare, or accommodation of the public in relation to said railways.

SECTION 20. The powers and privileges conferred by the provisions of this ordinance shall be limited to thirty years, from and after the date of its passage.

58 SECTION 21. Said grantees shall, on or before the tenth day of January, A. D. 1863, deposit with the controller of said city the sum of five thousand dollars in money, or in United States stocks, or in Treasury notes, bearing seven and three-tenths per cent. interest, which deposit shall be security for the completion, by said grantees, of the lines of railway which they are required to construct and complete, on or before the first day of October, A. D. 1863; and if the said railways shall not then be completed, the sum so deposited shall be forfeited to the city: Provided, however, that if said grantees or their assigns, cannot procure the requisite amount of rail of the Philadelphia, or other suitable pattern, to build said railways, within the time specified with a suitable and competent force, then the time shall be extended until such rail shall be obtained, and laid with a suitable and competent force: And provided further, that the time for the completion of said roads be extended not to exceed nine months, upon good and sufficient reasons being given that the iron rail cannot be procured. (As amended January 12, 1863.)

SECTION 22. The said grantees, and their assigns, shall pay to the treasurer of the city of Detroit, annually fifteen dollars on each and every passenger, or other car, excepting only those cars used for cleaning the track on said roads, to be collected as a license for the use of the city, after the term of five years from and after this date.

SECTION 23. Whenever the said grantees, their successors or assigns, shall have organized themselves into a body politic and corporate, under the said act of the legislature of the State of Michigan, or charter thereof, all the powers and privileges granted and
59 conferred to and upon them, by this ordinance, shall be given, granted and duly vested in said corporation, without any further action, consent, permission or authority of the common council whatever.

SECTION 24. All ordinances, or parts of ordinances heretofore made, ordained and passed, inconsistent with the provisions of this ordinance, are hereby repealed.

SECTION 25. Any wilful violation of, or failure to comply with the provisions of this ordinance, by said railway company, or by any agent, conductor, driver, or any person in the employ of said company, shall be punished by a fine not to exceed one hundred dollars and costs, and in the imposition of any such fine and costs, the court may make a further sentence that the offender be committed to the county jail or to the Detroit house of correction, until the payment thereof, for any period of time not exceeding six months. (As amended March 29, 1864.)

The following amendments and additional sections to the above ordinance were approved August 19, 1863:

SECTION 26. Permission is hereby given the Detroit railway to build its road and track on Michigan avenue, from Woodward avenue to Fourth street, and on Gratiot street from Woodward avenue to Russell street, instead and in lieu of upon Third street and Fort street, as provided by the ordinance approved November 24, 1862, and the amendments thereto (and such building on Michi-

gan avenue and Gratiot street, together with Jefferson and Woodward avenues, shall be deemed a compliance with the condition of deposit mentioned in section twenty-one of said ordinance).

60 SECTION 27. As a condition of the acceptance of this permission, the said Detroit City railway may, and shall complete its road and track on Fort street, Michigan avenue, and Gratiot street, as provided by the aforesaid ordinances, by the first day of October, 1864; and a failure to complete the same by that time shall be regarded as a forfeiture of the route or routes not so completed.

SECTION 28. On Woodward avenue, Gratiot street and Michigan avenue, beyond the pavement, the said railway may build its track a sufficient distance from the plank road in those streets, respectively, to leave the grade track of said plank road clear, and allow teams and vehicles to pass between said tracks and said plank road; and upon Michigan avenue and Gratiot street, beyond the pavement, said railway may construct its track with the "T" rail, which is used for street railways, and weighs not less than thirty-three pounds to the yard.

SECTION 29. The said railway is hereby authorized to extend its track, and run its cars, through Third street, southerly from Woodbridge street to the dock, and to lay the said track on such part of said street, westerly of the center, as they shall agree upon with the Michigan Central Railway Company.

SECTION 30. The tracks upon Jefferson avenue, Woodward avenue, Michigan avenue and Gratiot street, shall each be considered and run as one route, and subject its passengers to the payment of a single fare each: Provided, however, that all cars running north from Jefferson avenue shall run to and from Jefferson avenue, and that portion of Woodward avenue between Jefferson avenue and the routes intersecting Woodward avenue, shall be con-

61 sidered as making a portion of each of said routes respectively.

SECTION 31. The Detroit City railway, upon obtaining the consent of the owners of real estate on Elmwood avenue or such real-estate owners as are affected thereby, may, and is hereby authorized to build a track from its present track on Jefferson avenue to Elmwood cemetery, and run its cars thereon at such times as will accommodate the public: Provided, however, no person shall be charged more than one cent either way upon this track, and said railway are also authorized to run a track and their cars to Mount Elliott cemetery, along Mount Elliott avenue, and charge the same rate of fare as to the Elmwood cemetery.

SECTION 32. The Detroit City railway is hereby authorized to build its tracks and run its cars, from its track on Jefferson avenue, upon and along Randolph street southerly to Atwater street, and thence along Atwater street easterly to Brush street; and, as said track approaches the Detroit and Milwaukee depot, the said railway may turn the same on to the southerly side of said Atwater street so as to run said cars up to the sidewalk in front of the buildings of the

Detroit and Milwaukee Railway Company. (Approved October 7, 1863.)

The following amendments and additional sections to the foregoing ordinances were approved January 4, 1864.

SECTION 33. Permission is hereby given to the Detroit City railway to build its road and track on and through Fort street from Third street to Woodward avenue, instead and in lieu of on and through Third street, from Fort street to Woodbridge street, as now provided by the ordinance regulating the building of the
62 tracks of said railway, in which case said railway will be relieved of its obligations to build through Third street, as aforesaid.

SECTION 34. Permission is also hereby given to said railway to build its track and road along and through Stanton street, from Fort street to the River road, and thence on and through the River road to the westerly limits of the city; and such building shall relieve said railway of its obligation to build its road and track from said Stanton street, along said Fort street, to said westerly limits of the city; and the said railway is hereby authorized to build its track on Fort street, from the railroad crossing, through Stanton street and River road, to the city limits, with "T" rail, similar and of equal weight to that used on Michigan avenue.

SECTION 35. The road and track of said railway, from said western limits, through said River road, Stanton street and Fort street, and from Fort street along Woodward avenue to Jefferson avenue, shall then form one route, along which said railway shall run its cars continuously, and on which it shall be entitled to receive one fare for each passenger.

SECTION 36. The Detroit City Railway Company is authorized to connect their car depot on Second street with their main track, by constructing a branch track from their main track to said car-house, either through Second street or from Third street, through the alley between Jefferson avenue and Front street. Said company is also authorized to connect their car depot and stables on St. Antoine street with their tracks on Jefferson avenue, by constructing a branch track from St. Antoine street to said car depot and stables;
63 such branch track to be a single track only, and to intersect said Jefferson Avenue track at right angles and by means of turn-tables, in the same manner as the tracks of said company connect with each other at the intersection of Jefferson and Woodward avenue. (As amended December 15, 1874.)

SECTION 37. The time for completing the road of said company on Gratiot street, is hereby extended to November 1, 1865; provided, however, that said company shall extend their track as far as Chene street, on or before the 20th day of November next. (Approved October 8, 1864.)

SECTION 38. The track of said company shall be laid on that part of Gratiot street which is occupied by the plank road company, in such position as shall be agreed upon between the railway and plank road companies: Provided, however, that unless the line agreed on shall be along the center of said street, such agreement

shall be first reported to and approved by the council. (Approved October 8, 1864.)

SECTION 39. The Detroit City Railway Company is hereby authorized to construct a second track on Woodward avenue, in accordance with the provisions of the ordinance above referred to, being section 3 of this chapter. (Approved January 11, 1875.)

SECTION 40. Permission, consent, and authority are hereby granted to the Detroit City Railway Company to construct a second and maintain a double track in, on and throughout Jefferson avenue, in the city of Detroit: Provided, expressly, that if hereafter the pavement on said avenue shall be extended, or said avenue shall be ordered repaved, the said grantee or company shall contemporaneously with such paving or repaving, at its own sole expense, excavate, grade and pave or repave all the portion of said avenue lying within the rails of each track, and between the tracks, and shall also keep their portion of the said tracks and two feet nine inches outside the outer rail of each track in proper condition and repair, and the two inner rails shall be laid equidistant from the center of the street; said company shall thus pave or repave with the same material as shall be used for the paving or repaving of the balance of said avenue, or with material satisfactory to the common council, and the expense thereof shall include the cost of paving, repaving, grading, excavating, removing of earth and all other necessary work, and the whole shall be done in a manner satisfactory to the common council. (Approved July 8, 1873.)

The following amendments and additional sections to the foregoing ordinances were approved August 20, 1877:

SECTION 41. Permission, consent and authority are hereby granted to the Detroit City Railway Company to construct a second, and maintain a double track in, on and through Michigan avenue, from Woodward avenue to Thirteenth-and-a-half street, in the city of Detroit. It is, however, expressly understood and provided: That, as said avenue has already been ordered paved or repaved, the said grantee or company shall or if hereafter said avenue shall be ordered paved or repaved, the said grantee or company shall contemporaneously with such paving or repaving, at its own sole expense, excavate, grade and pave, or repave all the portion of said avenue lying within the rails of each track, and between the tracks, and shall also keep their portion of said tracks, and the space of two feet and nine inches outside the outer rail of each track, in proper condition and repair; and the two inner rails of its said tracks shall be laid equidistant from the center of the street. Said company shall thus pave or repave with the same material as shall be used for the paving or repaving of the balance of said avenue, or with material satisfactory to the common council, and the expense thereof shall include the cost of paving, repaving, and material for the same, grading, excavating, removing of earth and all other necessary work, and the whole shall be done in a manner satisfactory to the common council.

SECTION 42. Any provision of condition in the ordinance creating

said company, or of any ordinance amendatory thereof, contravening the provisions of the foregoing section, are hereby repealed.

Additional Right of Way.

The following amendatory ordinance was approved November 14, 1879:

"An ordinance supplementary to an ordinance entitled 'An ordinance to permit certain persons to establish and locate certain railways in the city of Detroit,' approved November 24, 1862, and the amendments thereto, and for other purposes."

SECTION 1. The track of the Detroit City Railway Company's line on Gratiot avenue shall be extended and completed and operated from its present terminus to Chene street, within sixty days from this date; and from Chene street to the city limits within
66 such period as the common council shall by resolution hereafter declare to be necessary.

SECTION 2. The Detroit City Railway Company shall, on or before June 1, 1880, extend, complete and operate their line on Woodward avenue, from its present terminus on Jefferson avenue, to Atwater street; thence through Atwater street to the Detroit, Grand Haven & Milwaukee depot. And the line on Congress street, heretofore operated by the Detroit & Grand Trunk Junction Street Railway Company, shall also be extended from its present terminus, through Randolph street to Atwater street, which extensions are hereby declared to be additional routes, for the construction and operation of which, under the provisions of the ordinance of November 24, 1862, granted to the City Railway Company, consent and authority is hereby given.

SECTION 3. The ordinances of June 13, 1873, and of June 16, 1875, and all amendments thereto, granting, respectively, to the Detroit & Grand Trunk Junction Street Railway Company, and to the Central Market, Cass Avenue and Third Street Railway Company, authority to construct and operate street railways through certain streets of the city of Detroit, are hereby repealed; and the said railways constructed and operated thereunder shall hereafter be subject to and operated under the ordinance approved November 24, 1862, and the amendments thereto, granting the Detroit City Railway Company certain rights therein set forth.

SECTION 4. On the 1st of July and January in each half year, from the 1st of January, 1860, the Detroit City Railway Company shall pay to the treasurer of the city of Detroit a tax of one per cent. during the period of this ordinance on the gross receipts
67 of the several lines of street railway operated by said company; and the treasurer of said company shall, on or before the beginning of each half year as above mentioned, make and deliver to said treasurer a sworn statement of such gross receipts. On and after the 1st day of January, 1880, whenever any of the streets through which the line of any of the railways operated by said company shall run, shall be hereafter *be* ordered to be paved,

repaved or repaired, said company shall furnish all materials and bear the entire expense of excavating, grading, paving, repaving and repairing that portion of the street which constitutes their railway or track, and the spaces between the lines of double tracks and all switches, said company shall at all times keep the same clean and in good order and condition; but said company shall have the right to use on the surface of their roadways either cobblestone or some similar durable and proper material to be approved by the common council.

The foregoing special tax and undertaking as to paving shall be in lieu of license and other taxes and charges for paving under existing ordinances. And it is hereby stipulated and agreed that the cars on all lines subject to this ordinance shall be operated as the public convenience may require and the common council order.

SECTION 5. The powers and privileges conferred and obligations imposed on the Detroit City Railway Company, by the ordinance passed November 24, 1862, and the amendments thereto, are hereby extended and limited to thirty years from date. And it is further agreed and stipulated that the running of cars on any street, or any fraction thereof, will be discontinued temporarily, on such
68 occasions as the common council may, by resolution, from time to time designate, to accommodate public processions or any other like convenience.

SECTION 6. This ordinance shall take immediate effect when written acceptances of the terms thereof are filed in the office of the city clerk of Detroit by the Detroit City Railway Company, the Detroit & Grand Trunk Junction Street Railway Company, and the Central Market, Cass Avenue and Third Street Railway Company, or their successors; and from that date all ordinances or parts of ordinances in conflict with the provisions hereof shall stand repealed; and all ordinances and parts of ordinances not in conflict herewith are hereby affirmed and continued in force.

SECTION 7. The right to amend or repeal this ordinance, in case of its violation by said company or companies, is expressly reserved.

Right of Way in Farrar Street.

The following additional ordinance, applying to and governing the Detroit City Railway Company, was approved by the common council December 11, 1880:

SECTION 1. Subject to all the provisions and requirements of chapter 50 of the Revised Ordinances of 1878, of the amendments thereof and of an ordinance entitled "An ordinance supplementary to an ordinance entitled An ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 24, 1862, and the amendments thereto, and for other purposes," approved November 14, 1879, the Detroit City Railway
69 Company is hereby authorized and permitted to lay, construct, use and operate a single street railway track, with suitable half-switch, on Farrar street, in the city of Detroit, from a point ten feet north of the north line of Bates street, extended to Monroe

avenue, and so as to connect with the track of said company on said avenue.

SECTION 2. This ordinance shall take effect when the said railway company shall have filed in the city clerk's office its written acceptance of the terms thereof.

Double Track on Griswold Street.

The following ordinance applying to and governing the Detroit City Railway Company, was approved by the common council July 8, 1882:

SECTION 1. Subject to all of the provisions and requirements of chapter 50 of the Revised Ordinances of 1878, of the amendments thereof, and of an ordinance entitled, "An ordinance supplementary to an ordinance entitled An ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 24, 1862, and the amendments thereof, approved November 14, 1879," the Detroit City Railway Company is hereby authorized and permitted to lay, construct, use and operate a double track on Griswold street, from State street to Larned street, and so as to connect at said streets with the present main track on said Griswold street: Provided, that the inside rails shall be laid not more than four feet apart.

SECTION 2. This ordinance shall take effect when the said
70 railway company shall have filed in the city clerk's office its written acceptance of the terms thereof.

Double Track to Michigan Central Depot.

The following ordinance, applying to and governing the Detroit City Railway Company, was approved by the common council March 29, 1884:

SECTION 1. Subject to all of the provisions and requirements of chapter 50 of the Revised Ordinances of 1878, of the amendments thereof, and of an ordinance entitled "An ordinance supplementary to an ordinance entitled An ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 24, 1862, and the amendments thereof, approved November 14, 1879," the Detroit City Railway Company is hereby authorized and permitted to lay, construct, use and operate a double track on Woodbridge street from the present terminus of its double-track line near Second street westward to the east line of Third street, and so as to connect with the main track on said street in the form of a Y, and to remove the present track across Third street in a southerly direction to a point on Woodbridge street near the south curb of said street, thirty feet west of the west line of Third street.

SECTION 2. This ordinance shall take effect when the said railway company shall have filed in the city clerk's office its written acceptance of the terms hereof.

Additional Track on Campus Martius.

71 The following ordinance, applying to and governing the Detroit City Railway Company, was approved by the common council July 21, 1884:

SECTION 1. Subject to all of the provisions and requirements of chapter 50 of the Revised Ordinances of 1878, of the amendments thereof, and of an ordinance entitled, "An ordinance supplementary to an ordinance entitled An ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 24, 1862, and the amendments thereof, approved November 14, 1879," the Detroit City railway is hereby authorized and permitted to lay, construct, use and operate an additional track through the Campus Martius of said city, extending from the present termination of the double track of said company, near the northerly line of said Campus Martius, southerly to the north line of Fort street, extended so as to form one continuous track for said company across the Campus Martius: Provided, that the inside rails shall be laid not more than four feet apart.

SECTION 2. This ordinance shall take effect when the said railway company shall have filed in the city clerk's office its written acceptance of the terms hereof.

Brush Street Line.

The following ordinance, applying to and governing the Detroit City Railway Company, was approved by the common council January 5, 1885:

SECTION 1. Subject to all the provisions and the requirements of chapter 50, of the Revised Ordinances of 1878, of the amend-
72 ments thereof, and of an ordinance entitled "An ordinance supplementary to an ordinance entitled An ordinance to permit certain persons to establish and locate certain street railways in the city of Detroit, approved November 24, 1862, and the amendments thereto, and for other purposes," approved November 14, 1879, the Detroit City Railway Company is hereby authorized and permitted to lay, construct, use and operate a single street railway track, with suitable switches, turnouts and turn-tables in and through the following streets and avenues of the city of Detroit, and the same to maintain, keep and use and to operate thereon railway cars in the manner and subject to the conditions herein contained and to all requirements and conditions set forth in the said ordinance, viz: Commencing at a point on Ferry street, adjacent to the Detroit & Milwaukee junction, running thence along Ferry street to Russell street, thence along Russell street to Farnsworth street, thence along Farnsworth street to Antoine street, thence along Antoine street to Ohio street, thence along Ohio street to Brush street, thence along Brush street to Gratiot street or avenue, and thence over the present track of the Detroit City Railway Company on Gratiot avenue, Randolph street, Monroe avenue and Woodward avenue to Jefferson avenue.

SECTION 2. The said grantees shall complete said railway and have the same in full operation over the entire route prescribed in section 1 of this ordinance on or before the first day of December, A. D. 1885, and said grantees shall, on or before the first day of February, deposit with the controller of said city the sum of five thousand dollars, in money of United States stocks or in
72½ treasury notes, which said deposit shall be forfeited to the City of Detroit if said railway shall not be constructed and in full operation on the date mentioned; and failure by said company to so construct and operate said railway within the time limited shall also be a forfeiture of the route and rights granted by this ordinance. Upon the completion of said railway as aforesaid, and whenever the same shall be in full operation, the controller shall refund to said grantees the amount so deposited as forfeit with him: Provided, that should said grantees be prevented from completing said railway by said December 1st, 1885, not due to any fault or action of said grantees, then the said grantees may be granted an extension of time within which to so complete said railway.

SECTION 3. It is hereby reserved to the common council of the city of Detroit, the right to make such further rules, orders
73 or regulations as may from time to time be deemed by the common council necessary to protect the interest, safety, welfare or accommodation of the city and public in relation to said railway.

SECTION 4. This ordinance shall take immediate effect when said Detroit City Railway Company shall have filed with the city clerk a written acceptance of the same, and shall execute a good and sufficient bond to the City of Detroit in the sum of $50,000, to be approved by the common council and conditioned for the faithful performance of the terms of this ordinance, provided that such written acceptance and bond shall be filed before January 15, 1885.

Extension of Russell Street.

The following ordinance, applying to and governing the Detroit City railway, was approved by the common council October 9, 1885:

SECTION 1. Subject to all the provisions and requirements of said chapter 98 of the Revised Ordinances of 1884, of an ordinance entitled, "An ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 24, 1862," and of supplements and amendments thereto, the Detroit City railway is hereby authorized and permitted to, extend, lay, construct, use and operate a single street railway track in Russell street to Feery street connecting the present track of said railway northerly through Russell street to the south line of the Lake Shore and Michigan Southern Railway crossing, with suitable switches, turnouts and turn-tables.

SECTION 2. This ordinance shall take effect when the said railway company shall have filed in the city clerk's office its
74 written acceptance of the terms hereof.

The following additional ordinance, applying to and gov-

erning the Detroit City Railway Company, was approved by the common council November 19, 1889:

SECTION 1. Subject to the provisions and requirements of chapter 98 of the Revised Ordinances of 1884, and of all ordinances supplementary and amendatory thereof, and of the ordinance approved January —, 1885, authorizing the Detroit City Railway Company to construct and operate a street railway on Brush, Russell and other designated streets in said city, permission and authority are hereby given to said Detroit City Railway Company, to extend its single track with suitable switches, on Russell street from Ferry avenue to the city limits and to operate and use the same as a part of the Brush and Russell Street Railway line.

SECTION 2. The laying of said track shall be completed within thirty days from the passage of this ordinance.

Trumbull Avenue Lines.

The following ordinance, applying to and governing the Detroit City railway, was approved by the common council July 31, 1885:

SECTION 1. Subject to all the provisions and requirements of chapter 50, of the Revised Ordinances of 1878, and of the amendments thereof, and of an ordinance entitled, "An ordinance supplementary to an ordinance entitled An ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 24, 1862, and the amendments thereto, and for other purposes," approved November 14, 1879.

The Detroit City railway is hereby authorized and permitted to lay, construct, use and operate a single street railway track, with suitable switches, turnouts and turn-tables in and through the following streets and avenues of the city of Detroit, and the same to keep, maintain and use, and to operate thereon railway cars in the manner and subject to the conditions herein contained, and to all the requirements and conditions set forth in said ordinance, viz: Commencing at a point on Trumbull avenue at the southerly line of Warren avenue, thence southerly along said Trumbull avenue to the center of Howard street; thence easterly along Howard street to Seventh street; thence along and over the track of the Congress and Baker Street railway on Seventh street southerly to Congress street, easterly along Congress street to Randolph street and southerly through Randolph street to the terminus of said road to Atwater street.

SECTION 2. That said Detroit City railway shall complete that portion of said route from the intersection of Howard and Seventh streets to Warren avenue and have the same in full operation within one year from the date of the passage of this ordinance.

SECTION 3. It is hereby reserved to the common council of the city of Detroit the right to make such further rules, orders or regulations as may from time to time be deemed necessary by the common council to protect the interests, safety, welfare or accommodation of the city and public in relation to said railway.

SECTION 4. This ordinance shall take immediate effect when said

Detroit City railway shall have filed with the city clerk a
76 written acceptance of the same and shall execute a good and sufficient bond to the City of Detroit in the sum of fifty thousand dollars ($50,000), to be approved by the common council, and conditioned for the faithful performance of the terms of this ordinance, provided that such written acceptance and bond shall be filed within ten days of the approval of this ordinance by the mayor.

Extension of Double Track on Michigan Avenue to Twenty-fifth Street.

The following ordinance, applying to and governing the Detroit City Railway Company, was approved by the common council September 1, 1886:

SECTION 1. Permission, consent and authority is hereby granted to the Detroit City Railway Company to construct a second and maintain a double track in, on and through Michigan avenue, from Thirteenth-and-a-half street to Twenty-fifth street in the city of Detroit, in accordance with the provisions of the ordinance above referred to, being section 3 of chapter 98 of the Revised Ordinances of 1884.

SECTION 2. This ordinance shall take effect when the said railway company shall have filed in the city clerk's office its written acceptance of the terms hereof, and a written agreement to pave said street in accordance with the terms of its proposition as reported upon to the board of aldermen, by a special committee, August 10, 1886.

Relative to Taxation and to Adjust Past Taxes.

The following ordinance, applying to and governing the Detroit City Railway Company, was approved and passed over the mayor's veto by the common council January 4, 1887:

77 SECTION 1. From the first day of July, 1882, to the thirty-first day of December, 1896, said railway shall pay to the city treasurer one and one-half per cent. of its gross receipts. From the first day of January, 1897, to the end of its franchise, under the ordinance approved November 14th, 1879, said railway shall pay to the city treasurer two per cent. of its gross receipts. At the expiration of each half year during the entire period above mentioned the treasurer of said railway shall submit to the city treasurer his sworn statement of such gross receipts, and shall therewith pay to said city treasurer the percentage so found to be due.

SECTION 2. From the 1st day of July, 1862, to the end of its franchise under the ordinance approved November 14th 1879, said railway shall also pay the City of Detroit such taxes as have been up to this date and shall be thereafter levied and assessed upon the lots and parcels of land and buildings thereon which are the property of said railway. Such tax shall be levied and assessed in the same manner and shall be payable at the same time as other city taxes on lands.

SECTION 3. In adjusting the amount due under the foregoing sections from the first day of July, 1882, to the thirty-first day of December, 1886, the railway company shall be credited with all sums heretofore paid by them on account of taxes or percentages on gross receipts, no interest shall be charged to either party. The railway shall pay to the city treasurer such balance as may be found due forthwith upon its ascertainment. Thereupon all suits and proceedings between the city and railway company shall be discontinued without costs to either party, and all unsettled claims in reference to such taxes shall be discharged by both parties.

SECTION 4. The above-mentioned percentage payments and the tax on lands provided for to accrue from January 1st, 1887, to
78 the end of the franchise of said railway, are to be paid by said railway company and received by the city in lieu of and in discharge of all taxes, license fees and charges of any kind against the property, capital stock, rights and franchises of said company, which have been or may be levied, assessed or imposed under any present or future law of authority. If hereafter said railway shall be either directly or indirectly charged with or required to pay any other or further tax, license fees or charges, then the amount so paid shall be credited by the city to said railway, upon the payment of the percentage payments to become due under the ordinance; and the obligation made to such percentage payments shall be satisfied and discharged to that extent; and, in no event shall said railway be liable to pay under any form of tax, license or charge any sums in excess of said percentage payments and the tax on the lands of said railway as above provided. Provided, however, that nothing herein contained shall be construed as a consent on the part of the Detroit City railway to the levying or collecting of any further tax, license or charge than the tax on the gross receipts, hereinbefore provided for, and the tax on its lands hereinbefore specified; nor shall any such other or further tax, license or charge be valid or binding without the consent in writing of the said Detroit City railway.

SECTION 5. Subject to the provisions of this ordinance, which are only intended to change the provisions of the ordinance of November 14, 1879, as to the percentage on gross receipts, all ordinances and parts of ordinances not inconsistent herewith are hereby affirmed and continued in force.

SECTION 6. This ordinance shall take effect when the Detroit City railway has filed its written acceptance of the same with the city clerk.

79 *Extension of Third Street Line to Holden Road.*

The following ordinance, applying to and governing the Detroit City railway, was approved by the common council July 26, 1887:

SECTION 1. Subject to all the requirements and provisions of chapter 50 of the Revised Ordinance- of 1878 and of the amendments thereof, and of an ordinance entitled, "An ordinance supplementary to an ordinance entitled An ordinance to permit certain per-

sons to establish and locate street railways in the city of Detroit, approved November 24, 1862, and the amendments thereto, and for other purposes," approved November 14, 1879, and ordinances supplementary thereto, the Detroit City railway is hereby authorized, permitted and required to lay, construct, use and operate a single street railway track with suitable switches, turnouts and turn-tables, in and through the following streets and avenues in the said city of Detroit, and the same keep, maintain, and use, and to operate thereon street railway cars, to wit: From the present terminus of the line of track of said Detroit City railway on Third street or avenue in said city along said Third street or avenue to the Holden road; thence in a westerly direction along the center of said Holden road to the point where the track of the Detroit and Bay City Railroad Company crosses said Holden road.

SECTION 2. That portion of said route from the present terminus of the track on Third street or avenue to the Holden road is to be constructed and laid contemporaneously with the paving of said Third street or avenue to the Holden road; and that portion of said route on the Holden road to be constructed and laid before the first day of January, A. D. 1888, and the whole of said extensions to be in operation by January first, 1888, in connection with and as a part of the line of said Detroit City railway, now in operation on said Third street or avenue.

SECTION 3. This ordinance shall take immediate effect when said Detroit City railway shall have filed with the city clerk a written acceptance of the same, and shall execute a good and sufficient bond to the City of Detroit in the sum of twenty-five thousand dollars ($25,000), to be approved by the common council, and conditioned for the faithful performance of the terms of this ordinance, provided that such written acceptance and bond shall be filed within ten days after the approval of this ordinance.

Extension of Trumbull Avenue Line.

The following ordinance, applying to and governing the Detroit City railway, was approved by the common council October 27, 1888:

SECTION 1. Subject to all the provisions and requirements of chapter 98 (of the Revised Ordinances of 1884, of the amendments thereof, and) of an ordinance entitled, "An ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 24, 1862, and of supplements and amendments thereto" the Detroit City railway is hereby authorized and permitted to extend, lay, construct, use and operate a single street railway, northerly through Trumbull avenue to the southerly line of the Lake Shore and Michigan Southern Railway crossing, with suitable switches, turnouts and turn-tables.

SECTION 2. The said Detroit City railway shall have said track completed and the same in full operation within sixty days from the date of the passage of this ordinance.

81 SECTION 3. It is hereby reserved to the common council of Detroit the right to make such further, orders or regulations as may from time to time be deemed by the common council necessary to protect the interest, safety, welfare or accommodation of the city and public in relation to said railway.

SECTION 4. This ordinance shall take immediate effect when said Detroit City railway shall have filed with the city clerk a written acceptance of the same and shall execute a good and sufficient bond to the City of Detroit in the sum of ten thousand dollars ($10,000), to be approved by the common council, and conditioned for the faithful performance of this ordinance, provided that such acceptance and bond shall be filed within ten days of the approval of this ordinance by the mayor.

East Fort Street Line—Chene Street Line—Cass Avenue Extension—Double Tracks in Jefferson Avenue and Gratiot Avenue—Mack Street Line.

The following ordinance, applying to and governing the Detroit City railway, was approved by the common council January 3, 1889:

SECTION 1. Subject to all the provisions and requirements of chapter 98 of the Revised Ordinances of the City of Detroit for the Year 1884, and amendments thereof and supplements thereto, and of an ordinance entitled, "An ordinance supplementary to an ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 14, 1879, and all amendments and supplements thereto, the Detroit City railway is
82 hereby authorized and permitted to lay, construct, use and operate a street railway with convenient tracks for turnouts, side-track curves and switches in and through the following streets and avenues in the city of Detroit, and the same to keep, maintain and use, and to operate thereon street railway cars in the manner and subject to the conditions herein contained, and to all the requirements and conditions set forth in chapter 98 of the Revised Ordinances of 1884, and in said ordinance and amendments and supplements thereto, viz:

Commencing at a point on Congress street east where its present track on said Congress street turns on to Randolph street, connecting herewith, running thence easterly along said Congress street east to its intersection with Brush street, thence northerly on Brush street with its intersection with Fort street east, thence easterly along said Fort street easterly to Mt. Elliott avenue, thence along said Mt. Elliott avenue to the Jefferson Avenue double track to the easterly limits of the city.

Also, to extend its track on Cass avenue from where it now turns on to Ledyard street northerly in, along and through said Cass avenue to the Detroit & Bay City Railroad crossing.

Also, to extend its double street railway track in, along and through Jefferson avenue from the present easterly terminus of its double track on said Jefferson aveuue to the easterly limits of the city of Detroit.

Also, to lay, construct, use and operate an additional track on Gratiot avenue from Monroe avenue to the easterly limits of the city of Detroit, so that a double track may be laid, used and operated through the entire length of said Gratiot avenue.

Also, to lay, construct, use and operate a single street rail-
83 way track in, along and through Mack street, from its conjunction with Gratiot avenue in an easterly direction along said Mack street to the city limits.

Also, to connect the tracks on Michigan avenue by suitable extensions and curves with the present track on Monroe avenue, so that cars may be brought through and over the same between the said two streets.

Also, to lay, construct, use and operate a single street railway track in, along and through the following streets and avenues, viz: Commencing at a point on Joseph Campau avenue, near the bank of the Detroit river, running thence northerly along said Joseph Campau avenue to its intersection with Atwater street, thence in a westerly direction along Atwater street to its intersection with Chene street, thence in, along and through Chene street in a northerly direction to the city limits.

Also, permission is hereby granted to the said Detroit City railway, if it shall desire so to do, to run its cars from any of its lines over and upon any street railway track which may be authorized and constructed on the bridge, and approaches thereto, to Belle Isle park, to said park, with all the privileges and rights which may be granted to any other street railway.

SECTION 2. The track hereby authorized on Congress Brush and Fort street- shall be constructed and in operation within one year from the date of the passage of this ordinance; and cars shall be run thereon often enough to fully accommodate public travel; and the double track authorized to be laid on Jefferson avenue shall be constructed and in operation within six months from the date of the passage of this ordinance. The track authorized to be con-
84 structed on Joseph Campau avenue Atwater and Chene streets shall be constructed and in operation within one year from the date of the passage of this ordinance. The double track hereby authorized on Gratio*n* avenue shall be constructed and in operation to Mt. Elliott avenue within one year from the date of the passage of this ordinance, and to the city limits contemporaneously with the pavement of said Gratiot avenue beyond the present pavement; and the track hereby authorized to be laid on Mack street shall be constructed and in operation within one year from the date of the passage of this ordinance. The track hereby authorized to be laid on Cass avenue shall be constructed within such time as shall be hereafter directed by the common council.

SECTION 3. Permission and authority is hereby given to the said Detroit City railway to run its cars at a rate of speed not exceeding ten miles an hour, and is hereby required to run thereon at an average speed of not less than six miles per hour, and whenever it shall be deemed advisable to substitute in lieu of animal power such system of electric or other motive power, except steam, as shall seem

best in its judgment for the purpose of properly and safely conducting its business in said city of Detroit upon all or any of said lines now in use and operated or hereafter to be in use and operated by said company, said change to be made under the provision of the board of public works.

SECTION 4. The above-mentioned additional lines shall be operated in connection with and as a part of the present system of the Detroit City railway, but the permission and authority hereby given shall be inoperative and void unless the said Detroit City railway shall file a written acceptance thereof within thirty days from the date of the passage of this ordinance, in which the said company
85 shall agree to do and perform the following with reference thereto, to wit:

A. It shall carry passengers from its Cass Avenue and Third Street, Trumbull Avenue, Michigan Avenue, and Congress and Baker Street lines to any point on the proposed line on Fort street east, or to the easterly terminus thereof, for a single fare of five cents for one continuous trip, and from the easterly terminus of the proposed line on Fort street east, or from any point thereon, to any point on Congress and Baker Streets, Michigan Avenue, Trumbull Avenue and Cass Avenue and Third Street lines for a single fare of five cents for one continuous trip.

A passenger paying a single fare of five cents on the line hereby authorized to be constructed on Joseph Campau, Atwater and Chene streets, shall be entitled to be transferred at Fort street to and conveyed by cars running on the proposed line on Fort street east to any point on said Fort Street line in one continuous trip, or to be transferred at Gratiot avenue to the line on said Gratiot avenue to be carried to any point on said Gratiot Avenue and Michigan Avenue lines in one continuous trip. A passenger paying a single fare of five cents on the line hereby authorized to be constructed on Fort street east shall be transferred at Chene street to said Chene Street line and carried to any point thereon in one continuous trip.

B. A passenger paying a single fare of five cents on the Gratiot Avenue line shall be entitled to a continuous ride on said Gratiot Avenue line and proposed line on Chene street and Fort street to the Belle Isle bridge; and from the Belle Isle bridge in reverse direction, over the Fort Street east, Chene Street and Gratiot Avenue
86 lines for a single fare of five cents.

C. It shall arrange for and carry out an interchange of traffic on the Michigan and Gratiot Avenue lines, either by transfer of passengers or by running through cars, so that passengers will be carried from any point on either of said roads to any point on the other for a single fare of five cents for one continuous trip.

D. Such arrangements shall be made by this company that within two months after this ordinance shall have been accepted by said company it shall carry such passengers as shall have taken passage on the cars between the hours of 5.30 o'clock and 7 o'clock in the morning and between the hours of 5.15 o'clock and 6.15 o'clock in the afternoon over any of its lines in said city for a single fare, to be paid for by a ticket sold at the rate of eight tickets for twenty-

five cents for one continuous trip, with all the rights of transfer and through carriages provided for in paragraphs "A" "B" and "C" of this section.

E. It shall within six months take up and remove its turn-table now at the intersection of its Jefferson and Woodward Avenue lines and shall run the cars on the said Woodward Avenue lines to the foot of Woodward avenue, and shall construct and maintain all necessary and convenient tracks for switching purposes south of Atwater street on Woodward avenue.

SECTION 5. All rights conferred and obligations imposed under the terms of this ordinance shall continue during the period by the ordinance approved November 14, 1879, that is to say, until November 14, 1909.

SECTION 6. It is hereby reserved to the common council of
87 the city of Detroit, the right to make such further rules, orders or regulations as may from time to time be deemed necessary by the common council to protect the interest, safety, welfare or accommodation of the city and public in relation to said railway.

SECTION 7. This ordinance shall take immediate effect when said Detroit City railway shall have filed with the city clerk a written acceptance of the same, and shall execute a bond, to the City of Detroit, in the sum of $50,000, to be approved by the common council, conditioned for the faithful performance of the terms of this ordinance, provided such written acceptance and bonds shall be filed within thirty days of the approval of this ordinance by the mayor.

Extension of Line on Michigan Avenue to Westerly City Limits.

The following ordinance, applying to and governing the Detroit City railway, was approved by the common council April 5, 1899:

SECTION 1. Subject to all the provisions and requirements of chapter 98 of the Revised Ordinances of the City of Detroit, the year 1884, and of an ordinance supplementary to an ordinance entitled, "An ordinance to permit certain persons to establish and locate street railways in the city of Detroit," approved November 24, 1862, and the amendments thereof, approved November 14, 1879, and all ordinances supplementary thereof and in amendment thereto, the Detroit City railway is hereby authorized and permitted to lay, construct, use and operate a double track on and through Michigan avenue in said city of Detroit, from the present terminus of its double track on Michigan avenue, westerly to the city limits.

88 SECTION 2. Said track shall be laid contemporaneous with the pavement of said Michigan avenue, and only so far as said street is or may hereafter be paved, and the expense of paving the portions of said street between the outer rails of said track shall be paid by said company.

Providing for the Sale of Certain Tickets on Cars.

The following amendment, applying to and governing the Detroit City railway, was approved by the common council February 4, 1893:

Whereas, section 6 of an ordinance approved January 3, 1889, being part of chapter 109 of the Revised Ordinances of the City of Detroit for the Year 1890, provides that the right to make such rules, orders and regulations as may from time to time be deemed necessary to protect the interests, welfare and accommodation of the public in relation to the Detroit City railway, its successors and assigns, is reserved to the common council of the city of Detroit; and

Whereas, paragraph D of section IV of said ordinance approved January 3, 1889, with reference to said railway, being part of chapter 109 of the Revised Ordinances of the City of Detroit for the Year 1890, provides that said railway company shall issue and sell tickets for fare at the rate of eight (8) tickets for twenty-five cents to be good for transportation between certain hours of each day.

It is hereby ordained by the people of the city of Detroit:

SECTION 1. It shall be the duty of the Detroit City Railway Company, its successors and assigns, to furnish and provide the conductor of each and every car operated by the said company within the limits of the city of Detroit with tickets to be good for transportation between the hours of 5.30 and 7 a. m. and 5.15 and 6.15 p. m., each ticket to be good for transportation as provided for in said ordinance.

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(As amended February 26, 1895.)

SECTION 2. The Detroit City Railway Company, its successors and assigns, shall issue and sell by its conductors or other duly authorized agents, to any person or persons applying therefor upon each and every car operated by said company within the limits of the city of Detroit, tickets to be good for transportation as provided in said ordinance of January 3, 1889, between the hours of 5.30 and 7 a. m. and 5.15 and 6.15 p. m., at the rate of eight (8) tickets for twenty-five cents, each ticket to be good for one fare.

(As amended February 26, 1895.)

SECTION 3. For each and every day in which the said Detroit City railway, its successors and assigns, shall neglect to provide tickets and refus/ to sell to persons applying therefor as herein provided, the said company may be complained of as for a distinct offense and punished as hereinafter provided.

SECTION 4. Any violation of or failure to comply with the provisions or requirements of this ordinance shall be punished by a fine not to exceed three hundred dollars and costs, and such fine when so imposed may be recovered from the person or corporation so convicted in an action at law in the proper court.

Additional Tracks on Griswold, Woodward, and Atwater.

The following amendment, applying to and governing the Detroit Citizens' Street Railway Company, was approved October 14, 1892, by the common council of Detroit:

90 SECTION 1. It is hereby ordained by the people of the city of Detroit: Consent, permission and authority is hereby granted to the Detroit Citizens' Street Railway Company to construct, maintain and operate street railways with the necessary tracks, cross-over tracks and turnouts, in and through the following streets and avenues in the city of Detroit:

1. To construct, maintain and operate a single track from the existing tracks operated by said company at the intersection of Griswold street and Grand River avenue, southerly along Griswold street and connecting with the existing track operated by said company on Griswold street, near the corner of State street.

2. A single track from the existing track operated by said company at the intersection of Griswold street and Larned street west, thence southerly along Griswold street to Atwater street, and thence through Atwater street, connecting with the tracks on Woodward avenue.

3. A single track from the north line of Jefferson avenue on Woodward avenue and thence through Woodward avenue to Atwater street.

SECTION 2. The said railways hereby authorized shall be operated as part of the system of railways authorized by the ordinance approved May 1st, 1898, granting certain privileges to Nathaniel Prouty and others for a street railway along Grand River avenue, and the ordinance amendatory thereof and supplementary thereto, and shall be subject to the terms and conditions thereof. The same may be operated through Griswold street over the line of railway now existing thereon, subject to all the rights, whatever they may be, which were granted under an ordinance granting authority to the Central Market, Cass Avenue, and Third Street Railway Com-

91 pany and its assigns, to construct and operate a street railway on Griswold. But this ordinance shall not be held or treated as extending the time when the rights and privileges of maintaining and operating street railways under said ordinance approved May 1, 1868, or said supplemental ordinances expire; nor shall the same prejudice or waive any claim which the City of Detroit may have as to the legal enactment of said ordinances or as to any of the terms or conditions thereof. Nor shall the same prejudice or waive any claim of said city in the suit now pending between the said city and the Detroit Citizens' Street Railway Company and others. No additional fare shall be required for carriage over any tracks hereby authorized. Switches on the tracks hereby authorized shall not be permitted.

SECTION 3. It is further ordained that only two railroad tracks shall be maintained and operated by said Detroit Citizens' Street Railway Company on Woodward avenue, between Grand River avenue and

Michigan avenue, and the westerly track heretofore operated by the Detroit City railway shall be removed, and upon the following terms, agreements and conditions:

1. The track heretofore operated by the Grand River Street Railway Company, the extension of which from *which* its present terminus at Jefferson avenue to Atwater street is hereby permitted, shall be part of the system of railways authorized under the ordinance approved May 1st, 1868, and may be connected with the other lines or tracks of the Detroit Citizens' Street Railway Company at any points where said company may desire to make convenient connections with that track, so that cars from other lines may be operated thereon and cars on said track may be likewise operated on other lines or tracks.

92 2. The right of maintaining and operating a street railway between Grand River avenue and Jefferson avenue by said Detroit Citizens' Street Railway Company shall be exclusive, and the common council of the city of Detroit shall not give its consent to the construction or operation of any railroad track by any street railway company on Woodward avenue between Grand River and Jefferson avenues before the expiration of the time when the right to maintain a railway on Woodward avenue heretofore granted to the Detroit City railway shall expire. And said Detroit Citizens' Street Railway Company may restore its track for the removal of which this agreement is made, if said common council shall, within the time above limited, grant consent to any other street railway company to construct a track on Woodward avenue, between Grand River avenue and Jefferson avenue.

4. The said Detroit Citizens' Street Railway Company shall within thirty days from the date when this ordinance shall take effect pay to the treasurer of the City of Detroit any costs heretofore paid of repaving the space to be occupied by the tracks that are hereby authorized, on all streets or portions of streets upon which said tracks are laid.

5. Any street railway to whom the privilege may be granted to construct a line of street railway through any of the streets mentioned in this ordinance and in respect to which a privilege is hereby granted, may use for operating its road all of the additions to the line of said Citizens' railway as herein and hereby authorized, upon such terms as to compensation as shall be determined by arbitrators to be appointed as follows: One of the arbitrators to be appointed by the Detroit Citizens' Railway Company, and one to be appointed by the street railway company to whom such privilege may be

93 granted and if they are unable to agree upon the compensation to be paid Citizens' Street Railway Company for the use of such track, then a third arbitrator shall be appointed by the then presiding judge of the circuit court for this county, and any two of the persons so appointed may make such award.

SECTION 6. Said Citizens' Street Railway Company shall file its acceptance of the terms hereof with the city clerk within thirty days from the date when this ordinance shall take effect, otherwise the same shall be void.

SECTION 7. An ordinance authorizing the Detroit Citizens' Street Railway Company to construct, maintain and operate railway tracks on certain streets approved August 30th, 1892, be and the same is hereby repealed.

SECTION 8. This ordinance shall take immediate effect.

Double Track on Trumbull Avenue.

The following ordinance, applying to and governing the Detroit Citizens' Street Railway Company, was approved and passed over the mayor's veto by the common council September 10, 1895:

SECTION 1. Subject to all the provisions and requirements of chapter 109, of the Revised Ordinances of the City of Detroit, for the Year 1890, and of all amendments and supplements thereto, consent, permission and authority is hereby given to the Detroit Citizens' Street Railway Company to change its present track on Trumbull avenue to a double track from Michigan avenue to the Lake Shore and Michigan Southern Railway crossing, and to maintain and operate the same as a double-track line.

If the city should at any time authorize the widening of said street and paving, it shall be paid by the Citizens' Company
94 its successors and assigns, and not the abutting property-holders.

SECTION 2. This ordinance shall take effect, if accepted in writing by said company within ten days after its final passage.

Double Track on Dix Avenue and Baker Street.

The following ordinance, applying to and governing the Detroit Citizens' Street Railway Company, was approved by the common council September 17, 1895:

SECTION 1. Subject to all the provisions and requirements of chapter 109 of the Revised Ordinances of the City of Detroit, for the Year 1890, and of all amendments and supplements thereto, consent, permission and authority is hereby given to the Detroit Citizens' Street Railway Company to change the single track on Dix avenue to a double track from the westerly city limits along Dix avenue to Twenty-fourth street; and to construct a single track on Dix avenue from Twenty-fourth to Twenty-third street, and to construct a single track on Twenty-third street from Dix avenue to Baker street; and to change the single track to a double track on Baker street from Sixteenth street to Trumbull avenue.

SECTION 2. The Baker Street line of the Detroit Citizens' Street Railway Company, after the Porter and Abbott Street lines have been put in operation, shall run through Michigan avenue and Woodward avenue to Congress street, and east on Congress street over what is known as a loop line to Mt. Elliott avenue.

That in consideration of crossing Baker Street bridge over the M. C. R. R. the company shall shore the present structure
95 in such shape as to make it safe for motor cars to cross, and be responsible and hold the city harmless from any damage

from accident or otherwise in consequence of the use of said bridge for street railway purposes; and provided further, that when the city reconstructs said Baker Street bridge the said Detroit Citizens' Street Railway Company, grantee herein, shall pay to the city 25 per cent. of the cost of said reconstruction at the time the contract for such reconstruction is made; and further provided that where a street is widened the cost of widening and the additional pavement made necessary, the expense shall be born- by the said Citizens' Street Railway Company, provided that whenever the Detroit railway shall relinquish its right to construct and operate a railway on Lafayette avenue, the Detroit Citizens' Street Railway Company will permit said Detroit railway to have the joint use of their tracks on Michigan avenue from Porter and Abbott street- to the east line of Griswold street on the payment by said Detroit railway to said Detroit Citizens' Railway Company — the sum of ten thousand dollars, if said relinquishment of Lafayette avenue and the said payment by said Detroit railway be made before any track is laid on Lafayette avenue by said Detroit railway, its successors or assigns.

SECTION 3. This ordinance shall take effect, if accepted in writing by said company, within ten (10) days after its final passage.

Double Track on Mack Avenue.

The following ordinance, applying to and governing the Detroit Citizens' Street Railway Company, was approved by the common council October 26, 1895:

96 SECTION 1. Subject to all the provisions of chapter 109, of the Revised Ordinances of the City of Detroit, of the Year 1890, and of all amendments and supplements thereto, consent, permission and authority is hereby given to the Detroit Citizens' Street Railway Company to change its present single track on Mack avenue to a double track, and to operate and maintain same as a double-track street railway.

SECTION 2. Transfers without additional charge shall be given, good for one continuous ride, from the Gratiot Avenue line to the Mack Avenue line, said transfers to be good at the junction of the two avenues.

SECTION 3. This ordinance shall take immediate effect if accepted in writing by the grantee within ten (10) days after its final passage.

Grand River Street Railway.

The following original ordinance, applying to and governing the Grand River Street Railway Company, was approved by the common council of Detroit on May 1, 1868:

Whereas, Nathaniel Prouty, Moses F. Dickinson, William B. Wesson, Harvey King and James P. Mansfield, their associates, successors and assigns, propose to organize as a body politic and corporate, under a charter from the legislature of Michigan, or under the "Act to provide for the construction of train railways," approved February 13, 1855, (Laws of 1855, p. 338), for the purpose of constructing and

operating in and through the streets of the city of Detroit; therefore,

Be it ordained by the common council of the city of Detroit:

97 SECTION 1. That consent, permission and authority is hereby given, granted and duly vested in the said Nathaniel Prouty, Moses F. Dickinson, William B. Wesson, Harvey King, James P. Mansfield, their associates, successors and assigns organized into a corporation under the laws of the State of Michigan as aforesaid, to lay a single or double track for a railway, with all the necessary and convenient tracks for turnouts, side tracks and switches in and along the course of the streets and bridges in the city of Detroit hereinafter mentioned, and the same to keep, maintain and use and to operate thereon railway cars and carriages during all the time hereinafter specified and prescribed, and in the manner and upon the conditions set forth in the ordinance: Provided, that nothing therein contained shall be construed to interfere with the legal rights of any of the plank roads running in the city of Detroit.

SECTION 2. That said grantees are hereby, by the provisions of this ordinance, authorized to construct and operate railways, as herein provided, through Woodward avenue from Jefferson avenue, through said first-named avenue to its intersection with Grand River avenue, and from thence on through said Grand River avenue, to the point of intersection with the railway tracks of the Michigan Southern and Detroit, Monroe & Toledo Railway tracks, and also on or through any other street or streets running between the western terminus above specified, and Woodward avenue to the Detroit river as the common council shall by resolution designate: Provided, that the track from Fort street to Jefferson avenue shall be laid under the direction of the committee on streets and the city engineer. (As amended June 26th, 1871.)

98 SECTION 3. All railways built, constructed or maintained under the provisions of this ordinance, shall be laid in the center of any and each street wherein the same are built, constructed or maintained (save upon Woodward avenue), if on a single track; and if on a double track, the inside rail of each track shall be laid within four feet and two inches of the center of the street; the said rails shall be laid four feet eight inches apart, so as to accommodate the most common width of carriage wheels: Provided, nevertheless, that in all streets which are not paved, or when plank roads are laid, the tracks of said railway may be laid elsewhere than in the center thereof, as may be most convenient, under the direction of the common council, and shall least obstruct the public travel thereon. When the grantees shall complete one track of the said railway, and place cars thereon for public use, they may at any time thereafter, within five years, build a second track, so that they do not interrupt the running of their cars on the first completed track; provided the consent of the common council is first obtained.

SECTION 4. The track of said railway shall be laid of such rails as shall least obstruct the free passage of vehicles and carriages over the same; and the upper surface of the rails shall be laid flush with

the surface of the streets, and shall conform to the grades thereof as now established, or as they shall, from time to time, be re-established or altered; and in case of grading, paving or otherwise, if it be necessary to relay said rails, with necessary ties and stringers, the same shall be done at the expense of the grantees; and in all streets, and parts of streets, which are not paved, the rails shall be laid in such manner as shall least interfere with the public travel thereon, and as shall be authorized and approved by the city engineer. The grantees, or their assigns, shall be required to keep the sur-
99 face of the streets inside of the rails in good order and repair, and all snow, ice, dirt and filth cleaned and removed from such portions of the streets at the expense of the grantees, and in such manner as not to obstruct travel in any part of the street.

SECTION 5. Consent, permission and authority is hereby given, granted and vested to the Grand River Street Railway Company to lay and construct an additional track along Woodward avenue, from Grand River avenue to the north line of Fort street, so as to form and complete a double track between said two points. Such additional track to be laid under the supervision and direction of the board of public works, and subject to all the conditions and provisions of the ordinance governing and controlling said railway: Provided, however, that such authority and permission and all rights therein, may be revoked and withdrawn by the common council of said city should any transfer, assignment or consolidation of said railway company be made or effected with any other railway company or corporation. The cars to be used on said railway shall be drawn by animals only, at a speed not exceeding six miles per hour, and shall be run at intervals not exceeding one regular car every five minutes during twelve hours each day, from Lincoln avenue to Jefferson avenue, and up to eleven o'clock at night. The cars and carriages used by said grantees shall be of the best style used on street railways in said city, and shall be used for no other purpose than to transport passengers and their ordinary baggage: Provided, that other cars and carriages may be used for cleaning said railway tracks from obstruction by snow and otherwise. (As amended March 3, 1883.)

SECTION 6. The rate of fare for any distance shall not ex-
100 ceed five cents in any one car, or on any one route named in this ordinance, except where cars or carriages shall be chartered for specific purposes: Provided cars so chartered shall not be considered regular cars within the meaning of the preceding section.

SECTION 7. Cars drawn in the same direction shall not approach each other within a distance of one hundred feet, except in cases of accident or at stations, or for the purpose of connecting two cars together.

SECTION 8. The said grantees shall complete their railway from Woodward avenue through Grand River street, to the easterly line in Woodbridge farm, contemporaneously with the paving of said street to said easterly line of the Woodbridge farm; said road thence to the easterly line of the Woodbridge farm to be completed to the westerly limits of the city as soon as the public necessity requires it,

and the common council shall be the judge of such necessity; and shall also complete their road on any street designated by the common council, from Grand River street to the Detroit river, or to Jefferson avenue, within three months after such designation shall be made by said council.

SECTION 9. No car shall be allowed to stop at a cross-walk, or in front of any intersecting street, except to avoid collision or to prevent danger to persons or property in the street.

SECTION 10. When the conductor of any car is required to stop at the intersection of streets, to receive or leave passengers, the car shall be stopped so as to leave the rear platform slightly over the crossing.

SECTION 11. The grantees or their assigns, shall employ
101 careful, sober and prudent agents, conductors and drivers, to take charge of their cars while on the road, and it shall be the duty of all such agents, conductors and drivers to keep vigilant watch for all trains, carriages or persons on foot, and especially children, either upon the track or moving towards it; at the first appearance of danger to such teams, carriages, footmen or children, or other obstructions, the cars shall be stopped in the shortest time and space possible.

SECTION 12. Conductors shall not allow ladies or children to enter or leave the cars while in motion.

SECTION 13. Conductors shall announce to passengers the names of the principal squares and streets as the cars reach them.

SECTION 14. The cars shall at all times be entitled to the track, and any vehicles upon the track of said railway shall turn out when any car moves up, so as to leave the track unobstructed, and the drivers of any vehicles refusing to do so, shall be liable to a fine not exceeding five dollars, on conviction before the recorder's court of said city of Detroit, and costs of prosecution shall not be at the expense of the city.

SECTION 15. The cars, after sunset, shall be provided with signal lights—blue in front, and green in rear of the cars.

SECTION 16. Wherever gas or water pipes and sewers are now laid in the streets herein specified, and through railways are to pass, the said railway must be laid down and maintained subject to the rights now in the city and the gas company, and board of public works to take up and remove said pipes or sewers in such manner as not unnecessarily to damage or injure said railways, or their use,
without claim against said city, gas company, or the board
102 of public works; and the common council expressly reserves to itself the right hereafter to lay down, or to permit to be laid down and repaired in said streets, gas or water pipes, and sewers, whenever the public or private convenience may require; the said gas or water companies, or private individuals, who shall take up pavement for the purposes aforesaid, being always required, as by the present city ordinance, to restore the pavement in the street to its former condition.

SECTION 17. If said grantees or other assigns shall fail to complete any of the aforesaid railways within the time prescribed by this or-

dinance, or by resolution of the common council, then the rights and privileges granted shall be forfeited as to any and every route herein established, which is not commenced and completed in the time herein prescribed, and the city shall be entitled to take possession thereof; provided, that if said grantees shall be delayed by the order or injunction of any court; provided said injunction is not obtained by connivance of said grantees; and further, provided that if said grantees shall use due diligence to have said injunction removed, then the time of such delay shall be excluded from the time of completion prescribed in this ordinance.

SECTION 18. It is hereby reserved to the common council of the city of Detroit the right to make such further rules, orders or regulations, as may from time to time be deemed necessary to protect the interests, safety welfare or accommodation of the public in relation to said railway.

SECTION 19. The powers and privileges conferred by the provisions of this ordinance shall be limited to thirty years, from and after the date of this passage.

103 SECTION 20. This ordinance shall be void and of no effect unless the grantees shall, within one month from the date of the passage thereof, notify the common council in writing of their acceptance of and agreement to the provisions of this ordinance, and shall, within six months after said last-named date, commence the work of building and constructing said railway from Woodward avenue to the east line of the Woodbridge farm.

SECTION 21. It is distinctly provided, understood and agreed, that the rights, franchises or privileges, hereby conferred upon the grantees, are subject to the rights now vested in the Detroit City railway.

SECTION 22. On and after the date upon which this ordinance shall take effect, whenever any of the streets or avenues through which the line of said railway is, or may be laid, shall be ordered to be paved, repaved or repaired, said company shall furnish all material and bear the entire expense of excavating, grading, paving and repairing that portion of the streets and avenues which lies between the outer rails of their track, including the space between all double tracks and switches, and said company shall at all times keep the same clean, and in good order and condition; but said company shall have the right for the purpose of paving, repaving or repairing said spaces to use either cedar blocks or cobble stone, or some similar durable or proper material, to be approved by the common council. (As amended June 12, 1882.)

SECTION 23. The said grantees and their assigns shall pay to the city treasurer of Detroit, annually, after five years from the passage of this ordinance, fifteen dollars on each and every passenger car, to be collected as a license for the use of the city, after the term

104 of five years from and after this date.

SECTION 24. Whenever the said grantees, their successors or assigns shall have organized themselves into a body politic and corporate, under the said act of the legislature of the State of Michigan, all the powers and privileges granted and conferred to and

upon them by this ordinance shall be given, granted, and duly vested in said corporation without any further action, consent, permission or authority of the common council whatever.

Myrtle Street Railway.

The following ordinance, applying to and governing the Grand River Street Railway Company, was approved by the common council June 27, 1885:

SECTION 1. Subject to all and every of the provisions regulations and requirements of chapter fifty-two (52) of the Revised Ordinances of the City of Detroit for 1878, and of the amendments thereof, consent, authority and permission are hereby given to the Grand River Street Railway Company to lay, construct, use and operate a single street railway track, with suitable switches, turnouts, and turn-tables, on and through Myrtle street, in the city of Detroit, and the same to keep, maintain, and operate thereon street railway cars, in the manner and subject to the conditions herein contained, and to all the requirements and conditions set forth in said ordinance and the amendments thereto, to wit: Connecting and joining the Grand River Street Railway track at the intersection of Myrtle street and Grand River avenue, and running thence westerly on and through Myrtle street to Mt. Hope avenue.

SECTION 2. The said company shall run through cars on
105 the route described from the westerly terminus on Myrtle street to the intersection of Woodward and Jefferson avenues, and the rate of fare over such route shall be five cents.

SECTION 3. The said grantee shall complete said railway in and through said Myrtle street as aforesaid and have the same in complete operation in connecting with the track of said Grand River Street railway within one year from the approval of this ordinance, or within one year from the establishing the grade of said Myrtle street in accordance therewith.

SECTION 4. It is hereby reserved to the common council of the city of Detroit to make such further rules and regulations as may from time to time be deemed by the said common council necessary to protect the interest, safety and accommodation of the public in relation to said route.

SECTION 5. This ordinance shall take immediate effect if the said Grand River Street Railway Company shall, within thirty days after the approval of this ordinance, file with the city clerk its acceptance thereof, and a good and sufficient bond to the City of Detroit in the penal sum of five thousand dollars, to be approved by the council, for the faithful performance of the terms of this ordinance by said company.

Extension of Charter.

The following ordinance, applying to and governing the Grand River Street Railway Company, was approved by the common council December 3, 1885:

SECTION 1. On the first day of January in each year from
106 the first day of January, 1886, the Grand River Street Railway Company shall pay to the treasurer of the city of Detroit a tax of one per cent., during the period of this ordinance, on the gross receipts collected for fares by said company for riding on said railway within the city limits, and the treasurer of said company, on or before the beginning of each year, as above mentioned, shall make and deliver to said city treasurer a sworn statement of said gross receipts; and said special tax shall be in lieu of license, and other taxes and charges, under existing ordinances: Provided, that this shall not in any manner effect the obligations of said company in the matter of paving or repairing pavements, as required by existing ordinances.

SECTION 2. The powers and privileges conferred and obligations imposed on the Grand River Street Railway Company by the ordinance passed May 1, 1868, and the amendments thereto, are hereby extended and limited to thirty years from and after the first day of January, A. D. 1886. And it is further agreed and stipulated that the running of cars, on any street, or any portion thereof, will be discontinued, temporarily, on such occasions as the board of aldermen may, by resolution, from time to time designate, to accommodate public processions or any other like public convenience.

SECTION 3. This ordinance shall take immediate effect when written acceptance of the terms thereof *are* filed in the office of the city clerk of the city of Detroit by the said Grand River Street Railway Company, and from that date, all ordinances, or parts of ordinances, in conflict with the provisions hereof shall stand repealed, and all ordinances or parts of ordinances, not in conflict, are hereby affirmed and continued in force.

107 SECTION 4. The right to amend or repeal this ordinance in case of its violation by said company, is expressly reserved.

Extension of Grand River Avenue Line to Westerly City Limits.

The following ordinance, applying to and governing the Grand River Street Railway Company, was approved by the common council August 3, 1888:

SECTION 1. Subject to all and every of the provisions regulations and requirements of chapter fifty-two (52) of the Revised Ordinances of the City of Detroit for 1878, and of the amendment thereof, consent, permission and authority are hereby given to the Grand River Street Railway Company to lay, construct, use and operate with animal power, a single street railway track, with suitable switches, turnouts and turn-tables on and through the center of Grand River avenue from the present terminus of its track on said avenue to the westerly limits under the supervision of the board of public works, and the same to keep, maintain and operate thereon street railway cars in the manner and subject to the conditions herein contained and to all the requirements and conditions set forth in said ordinance and amendments thereto.

SECTION 2. The said grantee shall complete said extension of rail-

way as soon as practicable after the approval of this ordinance and before the said street shall be paved under the proceedings now before the common council to pave the same, and in advance of such pavement, and a failure to comply with the provisions shall operate as a forfeiture of all rights under this ordinance.

SECTION 3. It is hereby reserved to the common council of the city of Detroit to make such further rules and regulations as
108 may from time to time be deemed by the said council necessary to protect the interests, safety and accommodation of the public in relation to said route.

SECTION 4. This ordinance shall take effect when the Grand River Street Railway Company shall, within thirty days after the approval of this ordinance, file with the city clerk its acceptance thereof, and a good and sufficient bond to the City of Detroit in the penal sum of five thousand dollars ($5,000), to be approved by the council, for the faithful performance of the terms of this ordinance by said company.

Crawford Street and East Congress Street Lines—Double Track on Grand River Avenue.

The following ordinance, applying to and governing the Grand River Street Railway Company, was approved by the common council January 3, 1889:

SECTION 1. Subject to all the provisions, regulations and requirements of chapter 100 of the Revised Ordinances of 1884, consent, permission and authority is hereby given to the Grand River Street Railway Company to construct, operate and maintain a double-track street railway in, along and through Grand River avenue so called, in the city of Detroit, from its junction with Woodward avenue to the city limits, together with all suitable and necessary turnouts, turn-tables and cross-overs; also to construct, operate and maintain a single street railway track in, along and through Crawford street in the said city of Detroit, commencing at a point on the track of the said Grand River Street Railway Company, and running thence northerly along the center of said Crawford street to the Detroit and Bay City Railroad crossing, together with all suitable and necessary turnouts, turn-tables, curves and switches; also to con-
109 struct, operate and maintain a single-track railway in, along, through Congress street east in said city of Detroit, commencing at a point on the track of the said Grand River Street Railway Company, and running thence easterly along said Congress street east to the easterly limits of the city of Detroit, or so far as said Congress street may be opened, and until said Congress street shall be opened to the city limits, or one year thereafter as hereinafter provided, the said Grand River Street Railway Company, the permission of the Detroit City railway having been first obtained for such action—shall connect its track at the corner of Mt. Elliott and Congress streets east with that of the Detroit City railway and run its cars over said tracks of said Detroit City railway along Mt. Elliott and Jefferson avenue east of Mt. Elliott to the Boulevard,

thence to a point at a convenient distance from the Belle Isle Park bridge to be fixed by the board of public works.

SECTION 2. Said double track on said Grand River avenue shall be so laid that the outer rails of said track shall be equidistant from a line drawn along the center of said street and in addition to the paving required to be done by the said Grand River Street Railway Company, under its present ordinance it shall lay and maintain the pavement between the double tracks hereby authorized.

SECTION 3. The lines hereby authorized to be constructed on Crawford street and Congress street east shall be operated in connection with the present Grand River Street Railway lines, and as a consideration for the permission hereby granted, the said company shall, when filing its acceptance of this ordinance as hereinafter required, file a stipulation or agreement in writing, by the terms of
110 which it shall agree to carry passengers from the westerly terminal of its line on Myrtle street and Grand River avenue and the northerly terminus of its line on Crawford street, or any point on any of its said lines, to any point on its line on Congress street east or to the terminus thereof, for a single fare of five cents for one continuous trip, and from any point on its line on Congress street east in a westerly direction to any point on any one of its said lines on Grand River, Myrtle or Crawford streets; also for a continuous trip from any point on the line of said railway, for a single fare of five cents for one continuous trip; and shall also within sixty days of the date of the acceptance of this ordinance issue and sell tickets at the rate of eight tickets for twenty-five cents, said tickets to be good for transportation over the entire route of said company or any portion thereof traveled continuously either way when offered for fare by persons taking passage on the cars between the hours of 5.30 o'clock and 7 o'clock in the morning, and between the hours of 5.15 o'clock and 6.15 o'clock in the afternoon.

SECTION 4. The lines hereinbefore authorized shall be constructed and in operation within one year from the date of the passage of this ordinance: Provided, however, that the railway track along and upon Congress street east, between Mt. Elliott avenue and the city limits, shall be laid, constructed and in use within one year after that portion of Congress street east shall be opened for public use: Provided also, that the said Grand River Street Railway Company shall, within thirty days after the approval of this ordinance by the mayor, file its acceptance thereof in writing, and shall give within the same period of time a bond in the penal sum of $20,000 for the faithful performance by it of the terms and conditions of this
111 ordinance.

SECTION 5. The rights conferred and obligations imposed under the terms of this ordinance shall remain in force during the period fixed by the ordinance to which this is supplementary.

SECTION 6. That said company is hereby authorized to run its cars at a rate of speed not exceeding ten miles per hour, and is hereby required to run them at an average rate of speed of not less than six miles per hour, and is also permitted to use, in operating its cars, electricity, or any other proper or suitable motive power used by

any other street railway company, now or hereafter organized and operated in the city of Detroit.

Third Street Line.

The following ordinance, applying to and governing the Grand River Street Railway Company, was approved by the common council April 23, 1889:

SECTION 1. Subject to all the provisions of chapter 100 of the Revised Ordinances of 1884, and of all amendments and supplements thereto, and subject to the provisions of an ordinance entitled, "An ordinance supplementary to chapter 100 of the Revised Ordinances of 1884 of the City of Detroit, and all amendments and supplements thereto," approved January 3, 1889, consent, permission and authority is hereby given to the Grand River Street Railway Company to lay a single-track street railway, with all necessary and convenient turnouts, side tracks, and switches, in, along and through Third street, in the city of Detroit, from its intersection with Grand River street southerly along said Third street in the center thereof to a point on said Third street south of Woodbridge street and
112 between said Woodbridge street and the bank of the Detroit river, and the same to keep, maintain and use, and to operate thereon street railway cars, subject and according to the provisions of the above-mentioned ordinances.

SECTION 2. Said track shall join with the tracks of the Grand River Street Railway Company on Grand River street, and shall be operated as a part of and in connection with the present street railway lines of said company. Said line shall be constructed and in operation within one year from the date of the approval of this ordinance.

All Grand River Cars to Run to City Limits.

The following ordinance, applying to and governing the Detroit Citizens' Street Railway Company, as assignee of the Grand River Street Railway Company, was approved by the common council January 3, 1893:

SECTION 1. It is hereby ordained by the people of the city of Detroit: That the Detroit Citizens' Street Railway Company, as the assignee of the Grand River Street Railway Company, be and is hereby required to run all of its cars on Grand River avenue to the westerly boundary line of the city.

SECTION 2. Each and every violation of or failure to comply with the requirements of this ordinance shall be punished by a fine not to exceed three hundred dollars and costs. (As amended March 21, 1893.)

SECTION 3. This ordinance shall take effect at the expiration of five days from the date of the approval of this ordinance.

Curve at Grand River and Cass Avenues.

The following ordinance, applying to and governing the
113 Cass Avenue and Grand River Avenue street car lines, was approved by the common council September 29, 1893:

SECTION 1. Consent, permission and authority is hereby granted to the owners of the Cass Avenue and Grand River Avenue street car lines to construct and operate a single-track curve connection from the Cass Avenue line with the northerly track of the Grand River Avenue street car tracks, extending through the northeasterly intersection of said streets.

SECTION 2. This ordinance shall not be held or treated as extending the rights or privileges of either of said street railway lines, and is granted subject to all of the provisions of the ordinances existing with reference to the construction and regulation of street railways in the city of Detroit, and shall not be held to prejudice the city of Detroit in any of its rights now being contested in the courts with reference to the life of the street railway franchise.

SECTION 3. The owners of said railway lines shall file an acceptance of the terms hereof with the city clerk within ten days from the date when this ordinance shall take effect. Otherwise, the same shall be void.

SECTION 3. This ordinance shall take immediate effect.

Dix Avenue Railway.

The following ordinance, applying to and governing the Dix Avenue railway, was approved by the common council April 17, 1886:

SECTION 1. That consent, permission and authority is hereby given, granted and duly vested in George Dorr, Samuel A. Plumer, Calvin K. Brandon, Bethune Duffield, their associates, successors and assigns, organized into a corporation under the laws of the State of Michigan, to lay a single track for a railway, with
114 all the necessary tracks for turnouts, side tracks and switches, in and along the course of the streets in the city of Detroit hereinafter mentioned, and the same to keep, maintain and use, and to operate thereon railway cars and carriages, during all the time hereafter specified and prescribed, and in the manner and upon the conditions set forth in this ordinance.

SECTION 2. The said grantees are by the provisions of this ordinance authorized to construct and operate a railway on and through the following streets, namely: Commencing at the intersection of Baker and Twenty-fourth streets, thence on and through Twenty-fourth street to the Dix road, and thence, with the exclusive right, on and through the Dix road to the city limits.

SECTION 3. Said railway through the said streets shall be constructed under the supervision of the board of public works, and the tracks shall be laid in the center of, and conform to the grade of said streets. The gauge of said track shall be four feet eight and one-half

inches, and the rails shall be a flat rail and shall be so laid as least to interfere with public travel. (As amended June 25, 1889.)

SECTION 4. The cars to be used on said railway shall be drawn by animals, and shall run at a rate of speed not to exceed ten miles an hour, and shall run as often as public convenience shall require and the common council shall prescribe: Provided, that the said company shall run regular cars at least once in thirty minutes during the sixteen hours of every day; and the cars in use upon said railway shall be run for no other purpose than to transport passengers and their ordinary baggage; provided, that other cars and carriages may be used for constructing and repairing said railway tracks
115 and for clearing the same from snow and other obstructions. (As amended June 25, 1889.)

SECTION 6. The rate of fare for a single trip shall not exceed five cents for any distance within the city limits; the payment of such fare shall entitle the passenger to a continuous ride from any point upon said railway within the city limits, upon the cars of the Congress & Baker Street railway, to any point upon the line of said last-named railway; and payment of fare by a passenger riding west upon said Congress & Baker Street railway shall entitle such passenger to a continuous ride from any point upon that line upon the cars of the grantees' railway to any point upon its line within the city limits; provided, in case the Congress & Baker Street railway shall be extended easterly, the said fare above mentioned shall entitle the passengers traveling in either direction to a ride over the line of such extension.

SECTION 7. No car shall be allowed to stop upon a cross-walk or in front of any intersecting street, except to avoid collision or prevent danger to persons or property in the street. When the conductor of any car is required to stop at the intersection of streets to receive or leave passengers, the car shall be stopped so as to leave the rear platform slightly over the crossing.

SECTION 8. The grantees or their assigns shall employ careful, sober and prudent persons to operate said railway and it shall be the duty of such persons to be vigilant and watchful to protect the public from danger.

SECTION 9. Conductors shall not allow ladies or children to enter or leave the cars while in motion.

SECTION 10. Conductors shall announce to passengers the names of the crosss-treets as the cars reach them.

116 SECTION 11. The cars shall at all times be entitled to the track, and any vehicles upon the track of said railway shall turn out, when any car comes up, so as to leave the track unobstructed, and the driver of any vehicle refusing to do so, shall be liable to a fine not exceeding fifty dollars on conviction before the recorder's court of the city of Detroit.

SECTION 12. Said grantees shall provide and keep in repair such substantial and permanent approaches to its tracks at all points on the line of its road so that teams, vehicles and persons shall be enabled to cross the track conveniently at all times.

SECTION 13. The cars, after sunset, shall be provided with proper signal lights.

SECTION 14. The said railway shall be laid down subject to the right of the city or any municipal board, to lay down, take up, change or remove any work of any kind on or beneath the surface of the streets, without any claim for damages on the part of said railway.

SECTION 15. The powers and privileges conferred by the provisions of this ordinance shall be limited to twenty years from and after its passage.

SECTION 16. Whenever the grantees, their successors and assigns, shall have organized themselves into a body politic and corporate under the said act of the legislature of the State of Michigan, all the powers and privileges granted and conferred to and upon them by this ordinance shall be given, granted and duly vested in said corporation without any further action, consent, permission or authority of the common council.

SECTION 17. Cars going in the same direction shall not approach each other within a distance of one hundred feet, except in
117 cases of accident or at stations, or for the purpose of connecting two cars together.

SECTION 18. On the first day of July and January in each year after the completion of said railway, said railway company shall pay to the treasurer of the city of Detroit a tax of one per cent. during the period of this ordinance, on the gross receipts collected for fares by said company for riding on said railways within the city limits, and the treasurer of said company on or before the beginning of each half year as above mentioned, shall make and deliver to said city treasurer a sworn statement of said gross receipts.

SECTION 19. On and after the date from which this ordinance shall take effect, whenever any of the streets through which the line of said railway is or may be laid, shall be hereafter ordered to be paved, repaved or repaired, said company shall furnish all the materials and bear the entire expense of excavating, grading, paving, repaving and repairing that portion of the street which lies between the outer rail of their tracks, and said company shall, at all times keep the same clear and in good condition; but said company shall have the right for the purposes of paving, repaving or repairing said space to use either cedar blocks or cobblestones or some other similar durable and proper material, such material to be subject to the approval of the board of public works.

The foregoing special tax and undertaking as to paving shall be in lieu of license, but shall not alter the obligation of said company to pay general taxes on all its property.

SECTION 20. This ordinance shall be void and of no effect unless the grantees, their associates, successors and assigns, shall, within one month from the date of the approval thereof, notify the
118 common council, in writing, of its acceptance and shall file a good and sufficient bond in the sum of five thousand dollars to be approved by the city controller, conditioned that the said railway shall be completed in the time specified herein and for the

faithful performance of the terms of this ordinance; and shall within one year from said date have said railway completed and in operation, running sufficient cars to accommodate the public.

SECTION 21. The right is hereby reserved to the common council of the city of Detroit to make such further rules, orders or regulations as from time to time may be deemed necessary by the common council to protect the interest, safety, welfare or accommodation of the public in relation to said railway.

SECTION 22. Any wilful violation of or failure to comply with any of the provisions of this ordinance shall be punished by a fine not to exceed one hundred dollars and costs; and in the imposition of such fine and costs the court may make a further sentence, that the offender be imprisoned in the Detroit house of correction or the county jail until such fine and costs are paid: Provided, however, that the term of imprisonment shall not exceed the period of six months.

SECTION 23. The right to amend or repeal this ordinance, in case of its violation by said company, is expressly reserved.

Service on Twenty-fourth Street and Dix Avenue.

The following ordinance, applying to and governing the Detroit City railway, was approved by the common council Nov. 27, 1894:

Whereas, the Revised Ordinances of the City of Detroit pro-
119 vide that the right to make such rules, orders and regulations as may from time to time be deemed necessary to protect the interest, welfare and accommodation of the public in relation to the Detroit City railway, its successors and assigns is reserved to the common council of the city of Detroit; and

Whereas, the interest, welfare, and accommodation of the public in the opinion of the common council of the city of Detroit requires that better street railway facilities shall be furnished residents of the western portion of the city, along and adjacent to Dix avenue, by the more frequent operation of street cars on the street railway on said avenue and Twenty-fourth street:

It is hereby ordained by the people of the city of Detroit—

SECTION 1. That from and after November 25th, A. D. 1893, it shall be the duty of the Detroit City railway, its successors and assigns, to run and operate street cars in each direction upon the street railway on Twenty-fourth street and upon Dix avenue from Twenty-fourth street to the westerly city limits in such manner that the intervals between cars going in the same direction shall not exceed eight minutes between the hours of 6 o'clock a. m. and 10.30 p. m. each day.

SECTION 2. For each and every day in which the said Detroit City railway, its successors and assigns, shall neglect to run and operate cars as herein provided, the said company may be complained of as for a distinct offense and punished as hereinafter provided.

SECTION 3. Any violation of or failure to comply with the provisions or requirements of this ordinance shall be punished by a fine not to exceed two hundred dollars and costs, and such fine, when so

imposed, may be recovered from the person or corporations
120 so convicted in an action at law in the proper court.

SECTION 4. This ordinance shall take immediate effect.

Highland Park Railway.

The following ordinance, applying to and governing the Highland Park Railway Company, was approved by the common council July 13, 1886:

SECTION 1. That consent, permission and authority are hereby given, granted and duly vested in the Highland Park Railway Company, its successors and assigns, a corporation organized under the laws of the State of Michigan, to construct, maintain and operate a single or double track street railway, with all the necessary and convenient tracks for turnouts, side tracks and switches, in and along Woodward avenue, commencing at the northerly side of the railroad crossing and running thence northerly to the city limits, and to keep, maintain, use and operate thereon street railway cars and carriages during all the time hereinafter specified and prescribed, and in the manner and upon the conditions set forth in this ordinance: Provided that until the double track is laid the switches shall be laid on such side as will be occupied by said double track when the same shall be constructed.

SECTION 2. The track of said railway shall be constructed under the supervision of the board of public works; and of rails similar to the rails now used by the City Railway Company on Woodward avenue, and such as shall the least obstruct the free passage of vehicles or carriages over, across or along the same, and the upper surface of the rails shall be laid flush with the surface of the street, and shall conform to the grade thereof as now established, or as it shall from time to time be re-established or altered by the city authorities.

121 SECTION 3. The railway through said street shall be laid so that the center of the track shall be the center of the street, if on a single track, and if on a double track the inside rail of each track shall be laid within two feet and four inches of the center of the street, so as to enable two cars to pass on opposite tracks, and leave a space between said cars of at least eighteen inches, and the gauge of said tracks shall be at least four feet eight and one-half inches, and so as to accommodate the most common width of carriage wheels; provided, that where a single track is laid in the first instance, it may be laid so as to form one of a double track authorized under this section.

SECTION 4. The cars to be used on said railway shall be drawn by animals or operated by electric motors, and shall run at a rate of speed not to exceed ten miles per hour, and shall run as often as public convenience shall require and the common council shall prescribe: Provided, that said company shall run regular cars at least once in thirty minutes during sixteen hours in every day; and the cars in use upon said railway shall run for no other purpose than to transport passengers and their ordinary baggage: Provided, that if

the operation of said railway by electricity shall be or become impracticable or dangerous to human life, the common council may revoke the privileges of thus operating said railway and compel said company to use animal power instead.

SECTION 5. The rate of fare for a single trip shall not exceed five cents for any distance within the city limits. The payment of such fare shall entitle the passenger to a continuous ride from any point upon said railway within the city limits, upon the cars of the Woodward Avenue street railway, to any point upon the line of
122 said last-named railway; and payment of fare by a passenger riding north upon said Woodward Avenue street railway shall entitle such passenger to a continuous ride from any point upon that line upon the cars of the grantees' railway to any point upon its line within the city limits.

SECTION 6. No car shall be allowed to stop upon a cross-walk or in front of any intersecting streets, except to avoid collision or prevent danger to persons or property in the street. When the conductor of any car is required to stop at the intersection of streets to receive or leave passengers, the car shall be stopped — as to leave the rear platform slightly over the crossing.

SECTION 7. The grantees or their assigns, shall employ careful, sober and prudent persons to operate said railway, and it shall be the duty of such employees to be vigilant and watchful to protect the public from danger.

SECTION 8. Conductors shall not allow ladies or children to enter or leave the car while in motion.

SECTION 9. Conductors shall announce to the passengers the names of cross-streets as the cars reach them.

SECTION 10. The cars shall at all times be entitled to the track, and any vehicle upon the track of said railway shall turn out when any car comes up, so as to leave the track unobstructed, and the driver of any vehicle refusing to do so shall be liable to a fine not exceeding fifty dollars, on conviction before the recorder's court of the city of Detroit.

SECTION 11. Said grantees shall provide and keep in repair such substantial and permanent approaches to its tracks at all points on the line of its road, so that teams, vehicles and persons shall be enabled to cross the track conveniently at all times.

123 SECTION 12. The cars, after sunset, shall be provided with signal lights.

SECTION 13. The said railway shall be laid down subject to the right of the city, or any municipal board, to lay down, take up, change or remove any kind of work on or beneath the surface of the streets, without any claim for damages on the part of said railway.

SECTION 14. The powers and privileges conferred by the provisions of this ordinance shall be limited to twenty years from and after the date of its passage.

SECTION 15. Cars going in the same direction shall not approach each other within a distance of one hundred feet, except in cases of

accident or at stations, or for the purpose of connecting two cars together.

SECTION 16. On the first day of July and January in each year after the completion of said railway, said railway company shall pay to the treasurer of the city of Detroit a tax of one per cent. during the period of this ordinance, on the gross receipts collected for fares by said company for riding on said railway within the city limits, and the treasurer of said company on or before the beginning of each half year as above mentioned, shall make and deliver to said city treasurer a sworn statement of said gross receipts.

SECTION 17. On and after the date from which this ordinance shall take effect, whenever any of the streets through which the line of said railway is or may be laid shall be hereafter ordered to be paved, repaved or repaired, said company shall furnish all the materials and bear the entire expense of excavating, grading, paving, repaving and repairing that portion of the street which lies
124 between the outer rails of their tracks, and said company shall at all times keep the same clear and in good order and condition; but said company shall have the right for the purpose of paving, repaving or repairing said space to use either cedar blocks or cobblestones or some other similar durable and proper material to be subject to the approval of the board of public works. The foregoing special tax and undertaking as to paving shall be in lieu of license, but shall not alter the obligations of said company to pay general taxes on all its property.

SECTION 18. This ordinance shall be void and of no effect unless the grantees, their successors and assigns, shall, within one month from the date of the approval thereof, notify the common council of its acceptance, in writing, and shall file a good and sufficient bond in the sum of five thousand dollars, to be approved by the city controller, conditioned that the said railway shall be completed within the time specified herein, and for the faithful performance of the terms of this ordinance; and shall within one year from said date have said railway completed and in operation, running sufficient cars to accommodate the public.

SECTION 19. The right is hereby reserved to the common council of the city of Detroit to make such further rules, orders or regulations as from time to time may be deemed necessary to protect the interests, safety, welfare or accommodation of the public in relation to said railway.

SECTION 20. Any wilful violation of or failure to comply with any of the provisions of this ordinance shall be punished by a fine not to exceed five hundred dollars and costs; and in the imposition of such fine and costs the court may make a further sentence, that the offender be imprisoned in the Detroit house of correction or
125 county jail until such fine and costs are paid: Provided, however, that the term of imprisonment shall not exceed the period of six months.

SECTION 21. The right to amend or repeal this ordinance, in case of its violation by said company, is expressly reserved.

Railroad Crossing.

The following ordinance, applying to and governing the Highland Park Railway Company, was approved by the common council September 12, 1893:

SECTION 1. Subject to all the provisions and requirements of an ordinance entitled, "An ordinance to authorize the Highland Park Railway Company, its successors and assigns, a body corporate, organized under the laws of the State of Michigan, to construct, maintain and operate a railway on Woodward avenue, between the railroad crossing and the northern city limits," approved July 13, 1886, being chapter 132 of the Revised Ordinances of the City of Detroit for the Year 1890, and subject to all the provisions and requirements of all ordinances of said city of Detroit with reference to street railways, the Highland Park Railway Company is hereby granted permission and authority to construct, maintain and operate its single-track or double-track railway in and along Woodward avenue, from the present southerly terminus of said railway at the northerly side of the railroad crossing, southerly over and across the right of way of the Michigan Central Railroad Company, the Grand Trunk railway, and Lake Shore & Michigan Southern railway, the Belt Line railroad, so as to connect with the railway tracks in said Woodward avenue on the southerly side of said railway premises.

126 SECTION 2. The said extension of railway tracks shall be constructed under the supervision of the board of public works and in such manner as shall be approved by them, and when so constructed, shall be and become a part of the railway of said Highland Park Railway Company, and subject to all the terms and provisions of the ordinances relating thereto; provided, that in case of the grade of the railway tracks and said Woodward avenue shall be separated, then the said Highland Park Railway Company shall immediately cause the tracks hereby authorized to conform to said newly established grade, and waives all damages caused by said change of grade.

SECTION 3. This ordinance shall be of no effect unless the said grantee shall, within ten days, file a written acceptance of its terms and conditions.

SECTION 4. This ordinance shall take immediate effect.

Fort Wayne and Elmwood Railway Company.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council January 31, 1865:

Whereas, Frederick Buhl, John P. Clark, Eber Ward, their associates, successors and assigns, propose to organize a body politic and corporate, under the "Act to provide for the construction of train railways," approved February 13, 1855 (Laws of 1855, p. 338), and act or acts amendatory thereto, for the purpose of constructing and

operating through the streets of the city of Detroit a street railway, to be known as the "Fort Street and Elmwood Avenue railway;" therefore,

It is hereby ordained by the common council of the city of Detroit:

SECTION 1. That consent, permission and authority is hereby
127 given, granted and duly vested in Frederick Buhl and his associates, who may be approved by the common council, their successors and assigns, organized into a corporation under the laws of the State of Michigan, as aforesaid, to lay a single or a double track for a railway, with all the necessary and convenient tracks for turnouts, side tracks and switches, in and along the course of the streets of, and bridges in, the city of Detroit, hereinafter mentioned, and the same to keep, maintain and use, and to operate thereon railway and carriages, during all the term hereinafter specified and prescribed, and in the manner and upon the conditions set forth in this ordinance.

SECTION 2. The said grantees are, by the provisions of this ordinance, authorized to construct and operate a street railway, as herein provided, upon the following route: Commencing at the present westerly limits of the city of Detroit, where Fort street touches and intersects said westerly limits; thence easterly through Fort street to Woodward avenue, and along the southerly side of Michigan avenue to Randolph street; thence up Randolph street, and from said Randolph street to Elmwood avenue through Croghan street the whole distance to said Elmwood avenue: Provided, said street can be opened without expense to the city; otherwise through Croghan street to St. Aubin street; and thence through St. Aubin street to Clinton avenue; and thence through Clinton avenue to Elmwood avenue; and thence through said Elmwood avenue to the gate of Elmwood cemetary. If the city of Detroit pave Croghan street contemporaneously with the laying of tracks on said street, said railway company shall pave their track on said street, and two feet four inches on either side thereof, at their own expense. (As amended March 3, 1865.)

128 SECTION 3. The railway through said streets shall be laid in the center thereof, if on a single track, and if on a double track, the inside rail of each track shall be laid a sufficient distance from the center of the street to enable two cars to pass on opposite tracks, and leave a space of at least eighteen inches, and the gauge of the track shall be at least four feet eight and one-half inches, and so as to accommodate the most common width of carriage wheels: Provided however, that where a double track shall not be laid in the first instance, and a second track shall afterwards be required, such second track may be laid upon either side of the first: And, provided further, that in all streets which are not paved, or where plank roads are laid, the track of said railway may be laid elsewhere than in the center thereof, as may be most convenient under the direction of the common council, and shall least obstruct the public travel thereon. When the grantees shall complete one track of the said railway, and place cars thereon for public use, they may, at any

time thereafter, within five years, build a second track, so that they do not interrupt the running of their cars on the first completed track: Provided, the consent of the common council is first obtained.

SECTION 4. The track of said railway shall be laid of such rails as are now laid in Woodward avenue, and as shall least obstruct the free passage of vehicles or carriages over the same; and the upper surface of the rails shall be laid flush with the surface of the streets, and shall conform to the grade thereof as now established or as they shall from time to time, be established or altered; and in case of grading, paving or otherwise, if it be necessary to relay said rails, the same shall be done at the expense of the grantees; and in all streets or parts of streets, which are not paved, the rails shall
129 be laid in such manner as shall least interfere with the public travel thereon, and as shall be authorized and *im*proved by the city engineer. The grantees and their assigns shall be required to keep the surface of the streets inside the rails, and for two feet four inches outside thereof in good order and repair, and all snow, ice, dirt and filth cleared and removed from the same, in such manner as will not obstruct the passage of said streets, at the expense of the grantees: Provided, however, that upon the paved portions of said streets, the materials for repaving shall be supplied at the expense of the city.

SECTION 5. The route of said railway shall commence at that point on Fort street where said street intersects the westerly limits of the city of Detroit; from thence running to Elmwood avenue, on the course set forth in section two of this ordinance; and in collecting fare, the whole of said distance shall be deemed but one route; and each passenger traveling the same continuously over the whole or any portion thereof, shall pay only one fare, the amount of which fare shall be five cents.

SECTION 6. Said railway shall be completed from the western limits of the city to Woodward avenue, on or before the first day of August, A. D. 1865, and the remainder thereof, from Woodward avenue to Elmwood avenue, on or before the twentieth day of August, A. D. 1866: Provided, however, that the said railway shall be completed from Woodward avenue to St. Aubin avenue, upon the route designated in said ordinance, on or before the first day of July, A. D. 1866. (As amended June 16, 1866, and August 13, 1866.)

130 SECTION 7. The cars to be used on said railways shall be drawn by animals only, at a speed not exceeding six miles per hour, and shall be run as often as public convenience shall require, and the common council shall prescribe: Provided, always, that said council will not require them to run regular cars oftener than once in fifteen minutes, during sixteen hours every day, from the fifteenth day of April to the fifteenth day of October, and fourteen hours every day from the fifteenth day of October to the fifteenth day of April; and the cars in use upon said railway shall be run for no other purpose than to transport passengers and their ordinary baggage; and the cars and carriages for that purpose shall

be of the best style in use on said railways: Provided, that other cars and carriages may be used for constructing and repairing said railway tracks, and for cleaning the same from obstructions by snow or otherwise.

SECTION 8. The rate of fare for any distance shall not exceed five cents in any one car, on said route, except when cars or carriages shall be chartered for specific purposes: Provided, cars so chartered shall be so designated by placards, and shall not be considered regular cars within the meaning of the preceding section.

SECTION 9. Cars drawn in the same direction shall not approach within a distance of one hundred feet, except in cases of accident, or at stations, or for the purpose of connecting two cars together.

SECTION 10. No cars shall be allowed to stop on a crosswalk, or in front of any intersecting street, except to avoid collision or prevent danger to persons or property in the street.

SECTION 11. When the conductor of any car is required to stop at the intersection of streets, to receive or leave passengers, the
131 cars shall be stopped so as to leave the rear platform slightly over the crossing.

SECTION 12. The grantees or their assigns, shall employ careful, sober and prudent agents, conductors and drivers, to take charge of their cars while on the road; and it shall be the duty of all such agents, conductors and drivers, to keep vigilant watch for all trains, carriages or persons on foot, and especially children, either upon the track or moving towards it. At the first appearance of danger to such teams, carriages, footmen or children, or other obstructions, the cars shall be stopped in the shortest space and time possible; and the drivers shall be provided with a whistle for the purpose of sounding the alarm in case of danger.

SECTION 13. Conductors shall not allow ladies or children to enter or leave the cars while in motion.

SECTION 14. Conductors shall announce to passengers the names of the principal squar-s and streets as the cars reach them.

SECTION 15. The cars shall at all times be entitled to the track, and any vehicles upon the track shall turn out when any car comes up, so as to leave the track unobstructed; and the driver of any vehicle refusing to do so shall be liable to a fine not exceeding ten dollars, on conviction before the recorder's court of the city of Detroit; but costs and prosecution shall not be at the expense of the city: Provided, however, that the steam fire-engines shall always have the right of the track on unpaved streets, when going to a fire.

SECTION 16. The cars after sunset shall be provided with colored signal lights—a red light in front, and a green light in rear.

132 SECTION 17. Wherever gas or water pipes or sewers are now laid in the streets herein specified, and through which said railway is to pass, the said railway must be laid down and maintained, subject to the right now in the city, and the gas company and the board of public works to take up and remove said pipes and sewers in such a manner as not unnecessarily to damage or injure said railway or its use, without claim against said city, gas

company or board of public works; and the common council expressly reserves to itself the right hereafter to lay down or permit to be laid down, and repaired in said streets, whenever the common council shall so direct by resolution; the said gas or water companies, or private individuals, who shall take up pavement for the purpose aforesaid, being always required as by the present city ordinance, to restore the pavement in the streets to its former condition.

SECTION 18. If said grantee or their assigns, shall fail to complete said railway, or any part thereof, within the time prescribed by this ordinance, then the rights and privileges herein granted shall be forfeited as to the whole of said route herein established, and the city shall be entitled to take possession thereof, provided the council does not extend the time: Provided, that if said grantees shall be delayed by the order or injunction of any court, and said order and injunction shall not have been obtained at the instance or by the connivance of said grantees, then the time of such delay shall be excluded from the time of completion prescribed in this ordinance.

SECTION 19. It is hereby reserved to the common council of the city of Detroit the right to make such further rules, orders or regulations as may from time to time be deemed necessary to pro-
133 tect the interest, safety, welfare or accommodation of the public in relation to said railways,

SECTION 20. The powers and privileges conferred by the provisions of this ordinance shall be limited to thirty years, from and after the date of its passage.

SECTION 21. Said grantees shall, on or before the first day of March, A. D. 1865, deposit with the controller of said city the sum of five thousand dollars in money or in United States stocks, or in Treasury notes bearing seven and three-tenths per cent. interest, which deposit shall be security for the completion of said grantees of said line of railway, which they are required to construct and complete on or before the time herein mentioned for the completion of the same, and if the said railway shall not then be completed the sum so deposited shall be forfeited to the city.

SECTION 22. The said grantees and their assigns shall pay to the treasurer of the city of Detroit, annually, twenty-five dollars on each and every passenger and other car, excepting only those cars used for constructing, repairing and cleaning the track on said road, to be collected as a license for the use of the city, after the term of five years from and after this date.

SECTION 23. Whenever said grantees, their successors or assigns, shall have organized themselves into a body politic and corporate, under the said act of the legislature of the State of Michigan, and the amendment or amendments thereto, all the powers and privileges granted and conferred to and upon them by this ordinance, shall be given, granted and duly vested in said corporation without any further action, consent, permission or authority of the common council whatever.

SECTION 24. No railway shall hereafter be built on and along

the streets occupied by the railway herein provided for, for a
134 greater distance than three blocks, at any place, without the consent of the grantees and their successors.

SECTION 25. The rails of said street railway shall be laid on a foundation equal to that of Woodward avenue, or any other first-class railroad.

Supplementary Ordinance.

The following ordinance applying to and governing the Fort Wayne & Elmwood Street Railway Company was approved by the common council on June 30, 1880:

SECTION 1. On the first day of July and January in each year from the first day of July, 1880, the Fort Wayne & Elmwood Street Railway Company shall pay to the treasurer of the city of Detroit a tax of one per cent., during the period of this ordinance, on the gross receipts collected for fares by the said company for riding on said railway within the city limits, and the treasurer of said company, on or before the beginning of each half year as above mentioned, shall make and deliver to said city treasurer a sworn statement of said gross receipts.

SECTION 2. On and after the date upon which this ordinance shall take effect, whenever any of the streets through which the line of said railway is or may be laid, shall be hereafter ordered to be paved, repaved or repaired, said company shall furnish all materials and bear the entire expense of excavating, grading, paving, repaving or repairing that portion of the street which lies between the outer rails of their tracks, including the space between all double tracks and switches, and said company shall at all times keep the same clear and in good order and condition; but said company shall have the right for the purpose of paving, repaving or
135 repairing said space to use either cedar blocks or cobblestone or some other similar, durable and proper material, such latter material to be subject to the approval of the common council and all cobblestones or other material now constituting the roadway between the said tracks of the company shall belong to said company, while used for the purpose of paving, repaving and repairing in the place or places where such cobblestones or other material are now or hereafter may be for the first time laid or placed.

The foregoing special tax and undertaking as to paving shall be in lieu of license and other taxes and charges under existing ordinances.

SECTION 3. The powers and privileges conferred and obligations imposed on the Fort Wayne & Elmwood Railway Company by the ordinance passed January 31, 1865, and the amendments thereto are hereby extended and limited to thirty years from this date; and it is further agreed and stipulated that the running of cars on any street or any portion thereof will be discontinued temporarily on such occasions as the common council may by resolution, from time to time designate, to accommodate public processions or any other like public convenience.

SECTION 4. This ordinance shall take immediate effect when writ-

ten acceptance of the terms thereof are filed in the office of the city clerk of the city of Detroit by the said Fort Wayne & Elmwood Company; and from that date all ordinances or parts of ordinances in conflict with the provisions hereof shall stand repealed, and all ordinances or parts of ordinances not in conflict herewith are hereby affirmed and continued in force.

SECTION 5. The right to amend or repeal this ordinance, in
136 case of its violation by this company, is expressly reserved.

Extension of Double Track on Fort Street from Fifth Street to Griswold Street.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council June 27, 1885:

SECTION 1. Subject to all and every one of the existing provisions, regulations and requirements of chapter ninety-nine (99) of the Revised Ordinances of the City of Detroit for the Year 1884, and of the supplementary ordinance in said chapter contained, consent, permission and authority are hereby given and granted to the Fort Wayne & Elmwood Company to lay, extend, construct, use and operate a second or double street railway track on and through Fort street in the city of Detroit from the present terminus of its double tracks near the intersection of Fort and Fifth streets to Griswold street, in the city of Detroit, and the same to keep, maintain and operate thereon street railway cars under, in the manner and subject to the provisions and requirements set forth in chapter ninety-nine (99) of the Revised Ordinances of the City of Detroit for the Year 1884, and the supplementary ordinance therein contained and by this ordinance imposed.

SECTION 2. The second or double track by this ordinance authorized and permitted shall be so laid, constructed and extended on and through said Fort street between the present terminus of the double track of said Fort Wayne & Elmwood Railway Company, near the intersection of Fort and Fifth streets to the intersection of Fort and Griswold streets, on each side of the center of said Fort street, that the inside rail of each of said tracks shall be at such a distance from the center of said Fort street as shall enable two cars to pass on the parallel tracks and leave a space of at least
137 eighteen inches between such cars when passing.

SECTION 3. The said Fort Wayne & Elmwood Street Railway Company shall complete the work of laying, constructing and extending the tracks authorized by this ordinance, and shall have said tracks and its railway between said Fifth and Griswold streets in full operation thereon, on or before the first day of January, 1886, or within six months from the date of the passage of this ordinance.

Extension to Westerly City Limits.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council on July 21, 1886:

SECTION 1. Subject to the existing provisions, regulations and requirements of chapter ninety-nine (99) of the Revised Ordinances of the City of Detroit for the Year 1884, and of the supplementary ordinance in said chapter contained, save and except as the same are by this ordinance changed or modified expressly or by implication, consent, permission and authority is hereby given and granted to the Fort Wayne & Elmwood Railway Company, to lay, construct, extend, use and operate a street railway track with all necessary and convenient switches, side tracks and turnouts in, on and along the center of Fort street, from the intersection of Fort street and Clark avenue, in the city of Detroit, to the intersection of Fort street and the westerly city limits of the city of Detroit, and the same to keep, maintain and operate thereon street railway cars for the term of twenty-four years from the date of the passage of this ordinance.

SECTION 2. The rate of fare for any distance on said Fort
138 Wayne & Elmwood railway, including the extension authorized by this ordinance, shall not exceed five cents in any one car, except when cars or carriages shall be chartered for specific purposes: Provided, cars so chartered shall be so designated by placards, and shall not be considered regular cars within the meaning of sec. 7 of chapter 99 of the Revised Ordinances of 1884 of the City of Detroit.

SECTION 3. The said Fort Wayne & Elmwood Railway Company, its successors and assigns, shall run cars for the transportation of passengers and their ordinary baggage between said Clark avenue and the westerly limits of the city of Detroit every half hour for thirteen hours of each day from the first day of May to the first day of November, and every hour for thirteen hours each day from the first day of November to the first day of May of each and every year: Provided, that the said company may be required to run its cars over the extension hereby authorized as often as every fifteen minutes if required by public convenience and the ordinance of the common council.

SECTION 4. The said Fort Wayne & Elmwood Railway Company, its successors and assigns, shall build, construct and complete the street railway track, and the switches, side tracks and turnouts hereby authorized, and shall have the same in readiness for operation ninety days after the acceptance of this ordinance by said Fort Wayne & Elmwood Railway Company has been filed in the office of the city clerk of the city of Detroit: Provided, that such additional switches and side tracks may be hereafter constructed along the extension of said railway hereby authorized as may be necessary or convenient.

SECTION 5. This ordinance shall take immediate effect when

written acceptance of the terms hereof shall be filed in the
139 office of the city clerk of the city of Detroit by said Fort Wayne & Elmwood Railway Company, and from that date all ordinances and parts of ordinances in conflict with the provisions hereof shall stand repealed, and all ordinances or parts of ordinances not in conflict herewith are hereby affirmed and continued in force.

Extension of Line and Single Track on Elmwood Avenue and East Lafayette Street to Boulevard.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council December 22, 1886:

SECTION 1. That subject to each and all of the existing provisions, regulations and requirements of chapter ninety-nine (99) of the Revised Ordinances of the City of Detroit for the Year 1884, and of the supplementary ordinance in said chapter contained, and of an ordinance to authorize said company to construct, maintain and operate a double street railway track on certain portions of Fort street, approved June 27, 1885, and of this ordinance, consent, permission and authority are hereby given and granted to the Fort Wayne & Elmwood Railway Company to lay, construct, maintain and use a street railway track, and thereon to maintain and operate street railway cars, upon and along the following avenue and street in the city of Detroit, namely: Commencing at and connecting with the present easterly terminus of the street railway track of said company at the junction of Croghan street and Elmwood avenue, running thence upon and along Elmwood avenue to the intersection of that avenue and Lafayette street, thence along Lafayette street to a point thereon not less than thirty feet nor more than one hundred feet west of the limits of the Boulevard or Frontenac avenue.

140 SECTION 2. That, in addition to the provisions, regulations and requirements mentioned in the preceding section, the consent, permission and authority hereby given and granted are so given and granted, subject to the following conditions and limitations, with which the said company must and shall comply, namely:

1. The street railway track hereby authorized to be laid, constructed and maintained shall be made a single track with suitable and convenient turnouts, side tracks and switches, and shall be laid and maintained in the center of the street.

2. The said company shall complete the work of laying and constructing the street railway tracks hereby authorized, and shall have the same in operation and use within one year after the passage of this ordinance.

3. The street railway track heretofore laid and constructed by said company, under the provisions of the several ordinances mentioned in section 1, and the street railway tracks authorized to be laid and constructed by this ordinance when completed shall be deemed one railway, and the route of such railway shall commence at the western terminus thereof at or within the city limits,

from thence running along the line of said railway, as heretofore, hereby or hereunder established, to the Boulevard or Frontenac avenue; and in collecting fare the whole of said distance shall be considered one route, and each passenger travelling the same continuously, either way, over the whole or any portion thereof, shall pay only one fare, the amount of which shall be five cents.

SECTION 3. This ordinance shall take immediate effect when the said company shall have filed with the city clerk its written
141 acceptance of the same, and shall execute and deliver to the controller of the city of Detroit a good and sufficient bond to said city in the penal sum of ten thousand dollars, to be approved by the common council, and conditioned for the faithful performance of the conditions and terms of this ordinance.

Relative to Taxation and to Adjust Past Taxes.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council, over the veto of the mayor, January 4, 1887:

SECTION 1. From the first day of July, 1882, to the thirty-first day of December, 1896, said railway shall pay to the city treasurer one and one-half per cent. of its gross receipts. From the first day of January, 1897, to the end of its franchise, under the ordinance approved June 30, 1880, said railway shall pay to the city treasurer two per cent. of its gross receipts. At the expiration of each half year during the entire period above mentioned, the treasurer of said railway shall submit to the city treasurer his sworn statement of such gross receipts, and shall therewith pay to said city treasurer the percentage so found to be due.

SECTION 2. From the first day of July, 1882, to the end of its franchise approved June 30, 1880, said railway shall also pay to the City of Detroit such taxes for municipal purposes as have been up to this date and shall be thereafter levied and assessed upon the lots and parcels of land and buildings thereon which are the property of said railway. Such tax shall be levied and assessed in the same manner and shall be payable at the same time as other city taxes on lands.

SECTION 3. In adjusting the amount due under the fore-
142 going sections from the first day of July, 1882, to the thirty-first day of December, 1886, the railway shall be credited with all sums heretofore paid by them on account of taxes or percentages on gross receipts, no interest shall be charged to either party. The railway shall pay to the city treasurer such amount as shall be found to be due forthwith upon its ascertainment: Thereupon all suits and proceedings between the city and the railway shall be discontinued without costs to either party, and all unsettled claims in reference to such taxes shall be discharged by both parties.

SECTION 4. The above-mentioned percentage payments and the tax on lands provided for to accrue from January 1, 1887, to the end of the franchise of said railway, are to be paid by said railway, and

received by the city in lieu of and discharge of all taxes, license fees and charges of any kind against the property, capital stock, rights and franchises of said company, which have been, or may be levied, assessed or imposed under any present or future law of authority.

If hereafter said railway shall be either directly or indirectly charged with or required to pay any other or further tax, license fees or charges, then the amount so paid shall be credited by the city to said railway upon the amount of the percentage payments to become due under this ordinance; and the obligation to make such percentage payments shall be satisfied and discharged to that extent; and, in no event shall said railway be liable to pay under any form of tax, license or charge, any sums in excess of said percentage, and the tax on the lands of said railway as above provided;

Provided, however, that nothing herein contained shall be construed as a consent on the part of the Fort Wayne & Elmwood Railway Company to the levying or collecting of any other or further tax, license or charge than the tax on the gross receipts here-
143 inbefore provided for and the tax on its lands as hereinbefore specified; nor shall any such other or further tax, license or charge be valid or binding without the consent in writing of said Fort Wayne & Elmwood Railway Company.

SECTION 5. Subject to the provisions of this ordinance, which are only intended to change the ordinance of June 30, 1880, as to the percentage on gross receipts and to modify existing ordinances in reference to the charges by taxation and percentage on gross receipts, all ordinances and parts of ordinances not inconsistent herewith are hereby affirmed and continued in force.

SECTION 6. This ordinance shall take effect when the Fort Wayne & Elmwood Railway Company has filed its written acceptance of the same with the city clerk.

Spur Track on East Lafayette Street.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved January 10, 1887:

SECTION 1. Subject to the existing provisions and requirements of chapter ninety-nine (99) of the Revised Ordinances of the City of Detroit, 1884, and of the supplementary ordinance in said chapter contained and all amendatory ordinances thereto, consent, permission and authority are hereby given and granted to the Fort Wayne & Elmwood Railway Company to lay, construct, use and operate a single street railway track in East Lafayette street, in the city of Detroit, from a point one hundred and ten feet east of the east line of Randolph street to and so as to connect with the track of said company on Randolph street, the curve of said track at the intersection of said streets to run in a southerly direction.

144 SECTION 2. The right to amend or repeal this ordinance is hereby reserved.

SECTION 3. This ordinance shall take effect when the said railway

company shall have filed with the city clerk its written acceptance of the terms thereof.

Extension of Line on Champlain Street to Easterly City Limits.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved August 20, 1888:

SECTION 1. That, subject to each and all of the existing provisions, regulations and requirements of chapter ninety-nine (99) of the Revised Ordinances of the City of Detroit for the Year 1884, and of the supplementary ordinance in said chapter contained, and of all ordinances amendatory thereof, consent, permission and authority are hereby given and granted to the Fort Wayne & Elmwood Railway Company to lay, construct, maintain and use a street railway track thereon, to maintain and operate street railway cars upon and along the following avenue and street in the city of Detroit, namely: Commencing at and connecting with the present easterly terminus of the street railway track of said company near the junction of Champlain street and the Boulevard, and running thence easterly upon and along Champlain street to the easterly city limits.

SECTION 2. That, in addition to the provisions, regulations and requirements mentioned in the preceding section, the consent, permission and authority hereby given and granted are so given and granted, subject to the following conditions and limitations,
145 with which the said company must and shall comply, namely:

1. The street railway track hereby authorized to be laid, constructed and maintained shall be made a single track, with suitable and convenient turn-outs, side tracks and switches, and shall be laid and maintained in the center of the street.

2. The said company shall complete the work of laying and constructing the street railway tracks hereby authorized, and shall have the same in operation and use within one year after the passage of this ordinance.

3. The street railway track heretofore laid and constructed by said company under the provisions of the several ordinances mentioned in section 1, and the street railway tracks authorized to be laid and constructed by this ordinance when completed shall be deemed one railway, and the route of such railway shall commence at either of the western termini thereof or within the city limits, from thence running along the line of said railway, as heretofore, hereby or hereunder established, to the easterly city limits; and in collecting fare the whole of said distance shall be deemed one route, and each passenger travelling the same continuously, either way, over the whole or any portion thereof, shall pay only one fare, the amount of which shall be five cents.

SECTION 4. This ordinance shall take effect when the said company shall have filed with the city clerk its written acceptance of the same, and shall execute and deliver to the controller of the city of Detroit a good and sufficient bond to the city in the sum of ten thousand dollars, to be approved by the common council, and con-

ditioned for the faithful performance of the terms and condi-
146 tions of this ordinance: Provided, that such acceptance and bond shall be filed within thirty days after the passage of this ordinance.

Champlain Street and East Fort Street Lines.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council January 3, 1889:

SECTION 1. Subject to the ordinances of Detroit, now in force relative to the Fort Wayne & Elmwood Railway Company, except so far as they may be modified by this ordinance, consent, permission and authority are hereby given and granted to the Fort Wayne & Elmwood Railway Company to lay, construct, maintain and use street railway tracks, and thereon to maintain and operate street railway cars, upon and along the following streets, avenues and places in the city of Detroit, namely:

Commencing at and connecting with the railway track of said company at the junction of Woodward avenue and Fort street, running thence along and on the Campus Martius to the north part of Cadillac square; thence along and upon the north part of Cadillac square to Bates street, thence upon and along Bates street to the railway track of said company on Randolph street.

Also, commencing at and connecting with the railway track of said company at the junction of Randolph and Champlain streets, running thence upon and along Champlain street to the railway track of said company at the junction of Champlain street and Elmwood avenue.

Also, commencing at and connecting with the railway track of said company at the junction of Champlain street and Mt. Elliott avenue, running thence upon and along Mt. Elliott avenue
147 to Fort street, thence upon and along Fort street to Baldwin avenue, thence upon and along Baldwin avenue to Champlain street, there connecting with the railway track of said company to be built on said street.

Also, commencing at and connecting with the railway track of said company at the junction of Champlain street and Helen avenue, running thence upon and along Helen avenue to Jefferson avenue; thence, with the consent of the Detroit City railway first obtained, upon the tracks of the Detroit City railway upon and along Jefferson avenue to the junction of Jefferson and Frontenac avenues; thence to a point at a convenient distance from the Belle Isle Park bridge, to be fixed by the board of public works.

Also an additional track on Champlain street from Elmwood avenue to Mt. Elliott.

SECTION 2. All of the railway tracks hereby authorized to be laid and maintained shall be laid and maintained in the center of the street or avenue, except upon and along the Campus Martius and Champlain street, wherein the location of said tracks shall be established by the board of public works, who are hereby authorized and

required to determine the line or location of such tracks upon and along the Campus Martius and Champlain street as shall in their judgment be deemed best for the public convenience, and at the same time secure to said company the full enjoyment of the rights and privileges hereby granted.

SECTION 3. The lines of street railway hereby authorized shall be single-track roads, with turnouts, side tracks or switches, except upon Champlain street, between Elmwood avenue and Mt. Elliott avenue, where an additional track is authorized (but without side tracks, turnouts or switches), and on Helen avenue and be-
148 tween Jefferson avenue and the Belle Isle Park bridge, where the railway shall be a single-track road with suitable and convenient side tracks, turnouts and switches. All side tracks, turnouts and switches shall be removed from Croghan street, from Randolph street to McDougal avenue, those remaining to be used only for the private convenience of said company, and the street railway on Croghan street shall be made and continue a single-track road, without side tracks, turnouts or switches, except as above provided.

SECTION 4. The said company shall complete the work of laying and constructing the railway tracks hereby authorized and shall have the same in operation within one year after the passage of this ordinance: Provided, however, that the railway track upon and along Fort street, between Mt. Elliott and Baldwin avenues, shall be laid, constructed and in use within one year after that portion of Fort street shall be open for public use.

SECTION 5. The street railway tracks heretofore laid and constructed by said company under the provisions of the ordinance mentioned in section 1, and the street railway tracks authorized to be laid by this ordinance, shall be deemed one railway, and the route of such railway shall commence at the western terminus thereof, at or within the city limits, from thence running along the lines of said railway, as hereinbefore and hereby established, to the eastern termini thereof, and in collecting fare the whole of said distance shall be deemed one route, and each passenger traveling the same continuously either way over the whole or any portion thereof, shall pay only one fare, the amount of which shall not exceed five cents: Provided, however, that said company shall issue and sell tickets at the rate of eight tickets for twenty-five cents, said
149 tickets to be good for transportation over the entire route of said company, or any portion thereof, traveled continuously either way, between the hours of 5.30 and 7 o'clock a. m. and 5.15 and 6.15 p. m., each ticket to be good for one fare, and this proviso to become operative within sixty days after the passage of this ordinance.

SECTION 6. The said company is hereby authorized to use in operating its street railway, electricity or any proper or suitable motive power used by any other street railway company now or hereafter organized and operating in the city of Detroit, subject, however, to the same conditions and limitations. The said company shall run its cars at the average rate of speed of not less than six miles per

hour, nor more than ten miles per hour, unless otherwise required by the common council.

SECTION 7. The said company shall have the right to run and operate its street railway cars across Belle Isle Park bridge whenever any other street railway company shall be granted the right so to do, with the same conditions and priveleges as shall be accorded to such other company.

SECTION 8. This ordinance shall take effect when the said company shall have filed with the city clerk its written acceptance of the same, and shall have executed and delivered to the city of Detroit a good and sufficient bond in the penal sum of twenty thousand dollars ($20,000), to be approved by the common council, and conditioned for the faithful performance of the terms and conditions of this ordinance.

Double Track on Fort Street West from Clark Avenue to City Limits.

The following ordinance, applying to and governing the
150 Fort Wayne & Elmwood Railway Company, was approved by the common council September 1, 1891:

SECTION 1. That, subject to the provisions and requirements of existing ordinances, and such additions and amendments as may be made thereto, *that* consent, permission and authority be and the same *is* hereby given to the Fort Wayne and Elmwood Railway Company to lay, construct and maintain a double track on Fort street, west from Clark avenue to the westerly city limits, said track to be laid contemporaneously with the paving of said street, and the expense of paving the portions of said street between the outer rails of said track be paid by said company. In case the foundation of the pavement in the remainder of the street is concrete, then the pavement between the outer rails shall have a concrete foundation, and the material of which the surface is paved shall be of the same character as that used in the adjacent portion of the street.

SECTION 2. This ordinance shall take immediate effect.

Double Track on Champlain Street.

The following ordinance, applying to and governing the Fort Wayne & Belle Isle Railway Company, was approved by the common council on August 15, 1892:

SECTION 1. Subject to the provisions and requirements of existing ordinances and such amendments and additions as may be made thereto, consent, permission and authority be and the same *is* hereby given to the Fort Wayne & Belle Isle Railway Company to lay, construct and maintain a double track on Champlain street, from Mt. Elliott avenue to Baldwin avenue, said track to be laid contemporaneously with the pavement of said street and the expense of paving the portions of said street between the outer rails to be paid by the company.

151 SECTION 2. The right to amend or repeal this ordinance in case of its violation by said company is expressly reserved.

SECTION 3. This ordinance shall take effect when the said railway company shall have filed with the city clerk its written acceptance of the terms thereof.

Sale of Certain Tickets on Cars.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council February 4, 1893:

Whereas, section XIX of chapter 110 of the Revised Ordinances of the City of Detroit for the Year 1890, being section 5 of an ordinance approved January 31st, 1865, provides that the right to make such rules, orders and regulations as may from time to time be deemed necessary to protect the interest, welfare and accommodation of the public in relation to the Fort Wayne & Belle Isle Railway Company, is reserved to the common council of the city of Detroit; and

Whereas, section V of an ordinance approved January 3, 1889, with reference to said railway, being a part of chapter 110 of the Revised Ordinances for the Year 1890, provides that said railway company shall issue and sell tickets for fare at the rate of eight tickets for twenty-five cents, to be good for transportation between certain hours each day, it is hereby ordained by the people of the city of Detroit:

SECTION 1. It shall be the duty of the Fort Wayne & Elmwood Railway Company, its successors and assigns, to furnish the conductors of each and every car operated by the said company within the limits of the city of Detroit with tickets to be good for
152 transportation between the hours of 5.30 and 7 o'clock a. m. and 5.15 and 6.15 p. m., each ticket to be good for transportation as provided for in said ordinance. (As amended February 26, 1895.)

SECTION 3. For each and every day in which the said Fort Wayne & Elmwood Railway Company, its successors and assigns, shall neglect to provide tickets for sale to those who shall apply as provided herein, the said company may be complained of as for a distinct offense and punished as hereinafter provided.

SECTION 4. Any violation of or failure to comply with the provisions or requirements of this ordinance shall be punished by a fine not to exceed three hundred dollars and costs, and such fine and costs, when imposed, shall be recovered from the person or corporation so convicted by an action at law in the proper court.

SECTION 5. This ordinance shall take immediate effect.

153 United States Circuit Court for the Eastern District of Michigan, Southern Division. In Chancery.

THE DETROIT CITIZENS' STREET RAILWAY COMPANY
vs.
CITY OF DETROIT ET AL. } No. 3631.

Stipulation.

On account of the engagements of court and counsel, it is hereby stipulated and agreed that the hearing of the motion for injunction in the above-entitled cause may be set for the twenty-third instant instead of the twenty-fifth.

BRENNAN, DONNELLY & VAN DE MARK,
Solicitor for Complainant.
CHAS. FLOWERS, *Solicitor for Defendants.*
T. E. TARSNEY, *Of Counsel.*

Filed in the clerk's office September 20, 1899.
WALTER S. HARSHA, *Clerk.*

154 *Motion for Preliminary Injunction Argued in Part.*

At a session of the circuit court of the United States for the eastern district of Michigan, continued and held, pursuant to adjournment, at the district court room, in the city of Detroit, on Saturday, the twenty-third day of September, in the year one thousand eight hundred and ninety-nine.

Present: The Hon. Henry H. Swan, district judge.

DETROIT CITIZENS' STREET RAILWAY COMPANY
v.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, Mayor, and Charles Flowers, Corporation Counsel. } In Equity. No. 3631.

In this cause a motion by the complainant for a preliminary injunction is argued by counsel in part.

155 *Motion for Preliminary Injunction Further Argued and Submitted.*

At a session of the circuit court of the United States for the eastern district of Michigan, continued and held, pursuant to adjournment, at the district court room, in the city of Detroit, on Monday, the twenty-fifth day of September, in the year one thousand eight hundred and ninety-nine.

Present: The Hon. Henry H. Swan, district judge.

DETROIT CITIZENS' STREET RAILWAY COMPANY
v.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, Mayor, and Charles Flowers, Corporation Counsel. } In Equity. No. 3631.

In this cause, complainant's motion for a preliminary injunction is further argued by counsel for respective parties and submitted.

156 *Motion by Defendant to Vacate Restraining Order Denied, with Order for Injunction, &c.*

At a session of the circuit court of the United States for the eastern district of Michigan, continued and held, pursuant to adjournment, at the district court room, in the city of Detroit, on Monday, the nineteenth day of March, in the year one thousand nine hundred.

Present: The Hon. Henry H. Swan, district judge.

DETROIT CITIZENS' STREET RAILWAY COMPANY
v.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, Mayor, and Charles Flowers, Corporation Counsel. } In Equity. No. 3631.

In this cause, a motion by defendants to vacate restraining order, heretofore argued by counsel and submitted after mature deliberation thereon, *it* is by the court now here denied.

And it is ordered that an injunction do forthwith issue against the enforcement of the ordinance of August 16, 1899, referred to in the bill of complaint herein.

157 The Circuit Court of the United States for the Eastern District of Michigan, Southern Division.

THE DETROIT CITIZENS' STREET RAILWAY COMPANY
vs.
THE CITY OF DETROIT ET AL. } No. 3631.

Messrs. Brennan, Donnelly & Van de Mark, Henry M. Duffield, and Fred A. Baker for complainant.

Charles Flowers, T. E. Tarsney, and Jasper C. Gates for defendants.

The complainant in this cause is a street railway corporation, organized in September, 1891, under an act of the legislature of Michigan approved March 5, 1867, entitled "An act to provide for the formation of street railway companies" (chapt. 95, Howell's Ann.

Stats. of Mich.). Sections 13, 14, and 20 of the act provide as follows:

"SEC. 13. Any street railway corporation organized under the provisions of this act may, with the consent of the corporate authorities of any city or village given in and by an ordinance or ordinances duly enacted for that purpose, and under such rules, regulations and conditions as in and by such ordinance or ordinances shall be prescribed, construct, use, maintain and own a street railway for the transportation of passengers in and upon the lines of such streets and ways in said city or village as shall be designated and granted from time to time for that purpose in the ordinance or ordinances granting such consent, but no such railway company shall construct any railway in the streets of any city or village
158 until the company shall have accepted in writing the terms and conditions upon which they are permitted to use said streets; and any such company may extend, construct, use and maintain their road in and along the streets or highways of any township adjacent to said city or village upon such terms and conditions as may be agreed upon by the company and the township board of the township, which agreement and the acceptance by the company of the terms thereof, shall be recorded by the township clerk in the records of his township."

"SEC. 14. After any such village or township shall have consented as in this act provided, to the construction and maintenance of any street railways therein or granted any rights and privileges to any such company and such consent and grant have been accepted by the company, such township, city or village shall not revoke such consent nor deprive the company of the rights and privileges so conferred."

"SEC. 20. The rates of toll or fare which any street railway company may charge for the transportation of persons or passengers over their road shall be established by agreement between such companies and the co-operation of the authorities of the city, or village where the road is located and shall not be increased without the consent of such authorities."

The bill charges the violation by the defendant of the rights acquired by complainant and its predecessors and assignors under the acts of 1855 and 1867. A brief recital of the rights and privileges accorded to these several lines of street railway is necessary.

November 24, 1862, the City of Detroit entered into a contract with Eben N. Wilcox and his associates, successors, and assigns, whereby said Wilcox and his associates organized into a corporation under the train railway law (chap. 94, Howell's Ann. Stats. of Michigan) and were authorized and empowered to construct, equip, and maintain and use single or double track railways with all necessary and convenient tracks, etc., in, along, and through certain streets, avenues, and public places in the city of Detroit and to operate thereon railway cars and carriages. This contract was adopted by the common council in the form of an ordinance, which was accepted by the grantees therein named, who were
159 duly organized into a corporation by the name of the "Detroit City railway." The grantee duly accepted said ordinance,

performed all the terms and conditions thereof, and constructed and put in operation the railway thereby authorized, and has since maintained and operated thereunder lines of street railway upon Jefferson, Woodward, Gratiot, and Michigan avenues, in the city of Detroit. Amendatory and supplemental ordinances granted to said Detroit City railway like rights and privileges in other streets and avenues upon which lines of railway were constructed and have ever since been operated under the terms of said original and supplementary ordinances. These latter lines were built and operated on Brush, Trumbull, Chene, East Fort, and other streets in the city. The ordinance of November 24, 1862, provided in section 23 thereof as follows:

"The rate of fare for any distance, shall not exceed five cents on any one car or on any one route named in this ordinance except where cars or carriages shall be chartered for specific purposes, provided that cars so chartered shall not be considered regular cars within the meaning of the preceding section."

By section 5 of said ordinance it was provided that:

"The routes of all of said railways shall commence in the Woodward Avenue road at the Campus Martius from thence running on their several courses to the outer limits of the city, provided, that in collecting fares those portions between Atwater through Brush or Beaubien streets, and through Woodward avenue to Jefferson avenue and between Brush and Beaubien on Third streets on Jefferson avenue and Woodbridge streets, shall be respectively deemed to belong to either of the above routes, any portion of which is then being travelled continuously by any one passenger at the same time, shall pay only one fare."

That is, that the lines of each of said avenues, to wit, Jefferson, Gratiot, Michigan, and Woodward avenues, should each be considered a separate route. The lines on Brush street and Trum-
160 bull avenue were maintained and operated each as a separate route, and it is the claim of complainant that under said ordinance the Detroit City Railway Company and complainant, as its grantee and successor, became entitled to exact and collect from each passenger taking passage on any one of the routes named the full fare of five cents for a single ride in any direction from any portion of the road on which he took passage, and such passenger was not entitled to have or receive from the railway company in consideration of his payment of said fare of five cents any transfer ticket or other contract, or have the right to a free ride over any one of the other routes of the company, or to a ride over more than a portion of any one of said routes, or to be transferred to or carried over any portion of any other route without the payment of additional fare. By an ordinance of the city of Detroit approved January 3, 1889, and duly accepted by the Detroit City Railway Company, authority was given to said company to construct and operate lines of street railway in, along, and through Fort street east, Mack street, Chene street, and Cass avenue, and to connect its lines on Michigan avenue with the Monroe & Gratiot Avenue lines. All of these several lines, excepting that on Cass avenue, have been con-

structed and are now owned and operated by complainant under ordinances of the city of Detroit accepted in writing by the complainant and its predecessors.

By section 4 of said ordinance of January 3, 1889, it was enacted that:

"SEC. 4. The above-mentioned additional lines shall be operated in connection with and as part of the present system of the Detroit City railway, but the permission and authority hereby given
161 shall be inoperative and void unless the said Detroit railway shall file a written acceptance thereof within thirty days from the date of the passage of this ordinance in which the said company shall agree to do and perform the following with reference thereto:

(a.) It shall carry passengers over its Cass Avenue and Third Street, Trumbull Avenue and Michigan Avenue and Congress and Baker Street lines to any point on the proposed line on Fort street east or the easterly terminus thereof for a single fare of five cents for one continuous trip, and from the easterly terminus of the proposed line on Fort street east or from any point thereon to any point on Congress and Baker Streets, Michigan Avenue, Trumbull Avenue and Cass Avenue and other street lines for a single fare of five cents for one continuous trip."

Other lines of railway had been constructed from time to time and put in operation by the complainant's predecessors in ownership under the authority of the common council, all of which, with those above named, have been acquired and are operated by the complainant. The ordinances which authorized the several lines have been amended by the joint action and consent of the common council and the railway companies, apparently in consideration of mutual concessions and undertakings of the contracting parties. The principal changes effected by these amendments were the privilege of transfer over various lines to a passenger paying a single fare of five cents and the company's consent to sell eight workingmen's tickets, so called, good during specified hours, for twenty-five cents. Aside from these modifications, which were prices paid by the railway companies for extensions and changes in their lines and extensions of the term of their easements in the streets of the city and other rights and privileges, the rate of fare established by the agreement of the city and the companies was and has been from the first uniformly five cents, which was prescribed by the ordinances and accepted by the grantees, as appears in the munic-
162 ipal legislat*ure* declaring the terms and conditions on which the city's consent to the use of its streets was granted and accepted by the grantees. These several ordinances contain differences of expression, but none of substance or meaning.

The first ordinance, that of November 24, 1862, by section 8, provides: "The rate of fare for any distance shall not exceed five cents in any one car or on any one route named in this ordinance." * * *

That of January 31, 1865, to the Fort Street & Elmwood Avenue railway, the name of which is now the Fort Wayne & Belle Isle

Railway Company, by section 8, provides: "The rate of fare for any distance shall not exceed five cents in any one car on said route, etc." * * *

The ordinance of January 3, 1889, authorizing the Detroit City railway to construct and operate the street railways designated as the East Fort Street line, Chene Street line, Cass Avenue extension, and Mack Street line, and to lay double tracks on Jefferson and Gratiot avenues, by section 4, provides: "That the above-mentioned lines shall be operated in connection with and as part of the present system of the Detroit City railway." * * *

And further: "Shall carry passengers from its Cass Avenue, Third Street, Trumbull Avenue, Michigan Avenue and Congress & Baker Street lines to any point on the proposed line on Fort street east or to the easterly terminus thereof, for a single fare of five cents for one continuous trip" and a like fare is prescribed for travel on other of the lines authorized.

The ordinance of May 1, 1868, granting the right to the Grand River Street Railway Company to construct and operate its
163 street railway in specified streets of the city, by section 6, provides:

"The rate of fare for any distance shall not exceed five cents in any one car or on any one route named in this ordinance, except etc." * * *

June 27, 1885, the common council, by ordinance of that date, authorized the Grand River Street Railway Company to construct and operate a railway track, etc., on Myrtle street, which ordinance, by section 2, defined the limits of the railway, and declared: "The rate of fare over such route shall be five cents."

January 3, 1889, the common council passed an ordinance authorizing the Grand River Street Railway Company to construct the Crawford Street and East Congress Street lines, and by section 3 thereof the Grand River Street Railway Company was required "to file a stipulation or agreement in writing by the terms of which, it shall agree to carry passengers from the westerly terminus of its line on Myrtle street and Grand River avenue, to the northerly terminus of its line on Crawford street on any point on any of its said lines to any point on its line on Congress street east, or to the terminus thereof, for a single fare of five cents for one continuous trip," and also fixed the fare for a continuous trip to any other point on its lines "for a single fare of five cents for one continuous trip." This ordinance also required the grantee to issue and sell tickets at the rate of eight tickets for twenty-five cents, to be good for transportation over the entire route of said company or any portion thereof, travelled continuously either way, between specified hours of the morning and afternoon.

The ordinance approved October 14, 1892, authorizing the Detroit Citizens' Street Railway Company to construct and
164 operate additional tracks on Griswold, Woodward, and Atwater streets as part of the system of railways authorized by the ordinance approved May 1, 1868, practically fixed the same rate

of fare by requiring these railways to be operated as part of the Grand River Avenue system.

The ordinance of June 13, 1873, empowered the Detroit & Grand Trunk Junction Street Railway Company to construct and operate its railway over Mt. Elliott avenue, through Congress and other streets, to the westerly limits of the city, and by section 12 enacted that "passengers conveyed upon said railway in said city, shall be charged no more than five cents for any distance." The rights granted under this last ordinance were prior to July 14, 1879, assigned to the Congress & Baker Street Railway Companies.

The ordinance of June 16, 1875, authorized the Central Market, Cass Avenue and Third Street railway to construct and operate its railway from Jefferson avenue through specified streets to the Holden road, and also upon other streets in the city. Section 12 provided: "Passengers conveyed upon said railway in said city, be charged no more than five cents for any distance." The grantee assigned its rights and property to the Cass Avenue Railway Company prior to November 14, 1879, and the latter company, June 22, 1882, transferred the same to the Detroit City Railway Company.

The ordinance of April 17, 1886, authorized the construction and operation of the Dix Avenue railway, and by section 6 provided: "The rate of fare for a single trip, shall not exceed five cents for any distance within the city limits."

165 The Highland Park railway was authorized by the ordinance of July 13, 1886, to construct and operate a track along Woodward avenue between the railroad crossing and the northerly city limits, and by section 5 it was provided: "The rate of fare for a single trip, shall not exceed five cents for any distance within the city limits."

By the ordinance of July 24, 1886, the Fort Wayne & Elmwood Railway Company was authorized to construct and operate its railway along Fort street from its intersection with Clark avenue to the intersection of Fort street and the westerly limits. Section 2 of the ordinance enacted:

"The rate of fare for any distance on said Fort Wayne & Elmwood railway, including the extension authorized by this ordinance, shall not exceed five cents in any one car, except, etc." * * *

December 22, 1886, the common council passed an ordinance granting the same company the right to construct and operate its railway on Elmwood avenue and East Lafayette street to the Boulevard, declaring the original lines and the extension granted one railway, and that "Each passenger travelling the same continuously either way over the whole or any portion thereof, shall pay only one fare, the amount of which shall be five cents."

The ordinance of January 3, 1889, authorized the Fort Wayne & Elmwood Street Railway Company to construct and operate its railway upon certain specified streets additional to its original grant, and declared that the railways thereby authorized should be deemed one railway, and "Each passenger travelling the same continuously either way, over the whole or any portion thereof, shall pay only one fare, the amount of which shall not exceed five cents." A

proviso required the company to issue and sell tickets at the
166 rate of eight for twenty-five cents, to be good for transportation over the entire route of said company during specified hours.

The Detroit railway was authorized by the ordinance approved December 4, 1894, to construct and operate a street railway upon specified streets and avenues in the city, the grant covering several routes. Section 10 of the ordinance provides: "The rate of fare for a single ride for a continuous trip any distance in one direction over any one of the routes hereinbefore described, shall be five cents," for which the passenger is entitled to such ride and to a ticket or transfer check good for a ride over any other line or road operated by said grantees, their associates and assigns, if presented within a certain time. It also required the grantee to issue and sell packages of eight tickets for twenty-five cents, which ticket would be accepted for fare between certain hours, and entitled the passenger to a transfer for a continuous ride over any other line or route of said grantees.

All these ordinances were accepted in writing by the respective grantees. Other ordinances affecting the street railways were passed by the council between the time of the grants conferred by the city in 1862 and 1865 and the passage of the ordinances of August 17, 1899, but they contain nothing germane to the question involved in this suit, with three exceptions. On the 14th of November, 1879, the common council passed an ordinance making certain requirements from the Detroit City Railway Company, which had become the owner of all the street railways then in operation, excepting the Fort Wayne & Elmwood Railway Company and its extensions and the Grand River Railway Company and its lines. This ordi-
167 nance was the culmination of many differences which had arisen between the city and the Detroit City Railway Company, notably controversies concerning the taxes payable by the railway companies to the city, and was an adjustment of the relations of the city and the company as to the controverted matters. It exacted of the company the extension of certain of its lines, and that its cars on all lines should be operated as the public convenience might require and the common council order. In consideration of the acceptance of this ordinance by the Detroit City Railway Company as a compromise of the differences existing between it and the city, and in view of the expenditure required of the grantee to comply with the demands of the city council, by section 5 of the ordinance it was enacted: "The powers and privileges conferred and obligations imposed on the Detroit City Railway Company by the ordinance passed November 24, 1862, and the amendments thereto, are hereby extended and limited to thirty (30) years from this date."

By section 6 the ordinance was made to take immediate effect when written acceptance of the terms thereof *were* filed in the office of the city clerk of Detroit by the Detroit City Railway Company, the Detroit & Grand Trunk Junction Street Railway Company, and the Central Market, Cass Avenue and Third Street Railway Company or their successors, which two latter corporations had assigned their

rights and property to the Detroit City railway, and "from that date, all ordinances or parts of ordinances in conflict with the provisions hereof, shall stand repealed, and all ordinances and parts of ordinances in conflict herewith, shall be affirmed and continued in force."

By section 7 the "right to amend or repeal this ordinance in case of its violation by said company or companies" is expressly
168 reserved. A like ordinance was passed June 30, 1880, giving to the Fort Wayne & Elmwood Street Railway Company (formerly known as the Fort Street and Elmwood Avenue railway) an extension of the powers and privileges conferred upon it under its original corporate name by the ordinance of January 31, 1865, and the amendments thereof for thirty years. This ordinance is apparently identical, *mutatis mutandis*, with that applicable to the Detroit City railway above quoted. These ordinances were accepted in writing by the grantees. Both the city and the railway companies assumed that the easement or franchise in the streets by the ordinances of 1862 and 1865 *were* limited to thirty years. By a similar ordinance approved December 3, 1885, "the powers and privileges conferred and obligations imposed on the Grand River Street Railway Company by the ordinance passed May 31, 1868, and the amendments thereto, are hereby extended and limited to thirty years from and after the first day of January, A. D. 1886." * * * All of the railways named in the bill except the Grand River railway and the Fort Wayne and Belle Isle Railway Company were acquired by the Detroit City Railway Company, which, in September, 1891, sold and conveyed the same, with the rights, easements, or franchises belonging thereto, to complainant, which also acquired, October 1, 1891, all of the rights and property of the Grand River Railway Company (formerly known as the Grand River Street railway), and subsequently became the lessee of the rights, privileges, and property of the Fort Wayne & Belle Isle Railway Company. Since its acquisition of said several lines, as narrated, complainant has lawfully operated and still is so operating the same.

169 The Detroit City railway, the Grand River Street railway, and the Fort Street & Elmwood Avenue railway, as it was first called, were originally incorporated under the train railway act of 1855, chap. 94, How. Ann. Stats., but these companies and all others involved in this case have since been incorporated under the street railway act of 1867, mentioned hereinafter. The act of 1855 up to 1861 contained but thirty-two sections and contemplated only the formation of corporations for the construction and operation of train railways upon and over which any person or company might carry freight in their own vehicles, paying tolls for the use of the track. It was amended Feb. 2, 1861, by adding sections 33 and 34 thereto, which read:

"SEC. 33. It shall be competent for parties to organize companies under this act to construct and operate street railways in and through the streets of any town or city in this State."

"SEC. 34. All companies or corporations formed for such purposes shall have the exclusive right to use and operate any street railways constructed, owned or held by them; provided that, no such

company or corporation shall be authorized to construct a railway under this act through the streets of any town or city without the consent of the municipal authorities of said town or city and under such regulations and upon such terms and conditions as said authorities may from time to time prescribe."

March 27, 1867, the act was again amended by adding to sec. 34 the following as part of that section, namely:

"Provided further, that after such consent shall have been given and accepted by the company or corporation to which the same is granted, such authorities shall make no regulations or conditions whereby the rights or franchises here granted shall be destroyed or unreasonably impaired or such company or corporation be deprived of the right of constructing, maintaining and operating such railway in the street in said consent or grant named pursuant to the terms thereof."

Section 36, after prescribing what shall be a sufficient des-
170 ignation of the route or routes stated in the articles of association of the company, provides as follows:

"It shall be lawful to build, maintain or extend the railway of such company according to the terms and conditions of such grant or grants." * * *

Section 41 and 42 were enacted April 12th, 1871. The latter provides that "all the provisions of this act as amended, shall be applicable to all corporations now organized under this act as though specifically named."

March 5, 1867, the street railway act of 1867, so called, was passed. It is entitled "An act to provide for the information of street railway companies" and prescribed a complete scheme for the organization of such companies, which would seem to have been designed to displace, if not repeal, former legislation to that end. Sections 13, 14, 15, 19, 20, 29, and 30 of this act are as follows:

"SEC. 13. Any street railway corporation organized under the provisions of this act, may, with the consent of the corporate authorities of any city or village given in and by an ordinance or ordinances duly enacted for that purpose and under such rules, regulations and conditions as in and by such ordinance or ordinances shall be prescribed, construct, use, maintain and own a street railway for the transportation of passengers in and upon the lines of such streets and ways in said city or village as shall be designated and granted from time to time for that purpose in the ordinance or ordinances granting such consent; but no such railway company shall construct any railway in the streets of any city or village until the company shall have accepted in writing, the terms and conditions upon which they are permitted to use said streets." * * *

"SEC. 14. After any city, village or township shall have consented as in this act provided, to the construction and maintenance of any street railways therein or granted any rights and privileges to any such company, and such consent and grant have been accepted by the company, such township, city or village shall not revoke such consent nor deprive the company of the rights and privileges so conferred."

"SEC. 19. The common council or other corporate authorities of the city or village in which any street railway shall be located,
171 may from time to time by ordinance or otherwise, establish and prescribe such rules and regulations in regard to said railway as may be required for the grading, paving and repairing of the streets, and the construction of sewers, drains, reservoirs and crossings and the laying of gas and other pipes upon, in and along the streets traversed by such road and to prevent obstructions thereon."

"SEC. 20. The rates of toll or fare which any street railway company may charge for the transportation of persons or passengers over their road, shall be established by agreement between such company and the corporate authorities of the city or village where the road is located and shall not be increased without consent of such authorities."

"SEC. 29. All companies and corporations heretofore organized in this State for the purpose of building, and operating street railways under the statutes then in force, shall have the same powers, rights, protection and privileges and shall be subject to all the liabilities as are hereby provided for companies and corporations organized under the provisions of this act."

"SEC. 30. All companies and corporations hereafter formed for the purpose of constructing, owning or using any street railway for the transportation of persons or passengers in any city or village shall be organized under the provisions of this act and shall be subject to the provisions of chapter seventy-three (73) of the compiled laws of this State, and to all other general laws of this State, relating to corporations so far as the same may be applicable to corporations formed under this act, and the legislature may alter, amend or repeal this act at any time."

Section 15 authorized any street railway company to—

"Purchase and acquire either at public or private sale or to hire any street railway company in any city, village or township, owned by any other corporation together with the real and personal estate belonging thereto and the rights, privileges and franchises thereof and to use, maintain and complete such road and use and enjoy the rights, privileges and franchises of such company and upon the same terms as the company whose roads and franchises were so acquired, might have been," etc.

It will be noted that when the original grant to the Detroit City railway was re-enacted and extended November 14, 1879, and that to the Fort Wayne & Elmwood Railway Company, subsequently called the Fort Wayne & Belle Isle Railway Company, was re-enacted and extended in 1880, and the original grant to the Grand River Street Railway Company was re-enacted and extended
172 in 1885, the provisions of the street railway act, above quoted, were in force, and by the express terms thereof the grantees, although incorporated under the train railway act, became entitled to the benefit and protection of all provisions of the street railway act. This is true also of the subsequent grants by the city to the various railway companies which are the constituents of complain-

ant's system, including also the Fort Wayne & Belle Isle Railway Company, which it holds by lease.

The charter of the city of Detroit, approved June 7, 1883, sections 121 and 122, clothed the common council with power over the streets, highways, and alleys, to establish, open, widen, extend, straighten, alter, vacate, etc., and generally to control, prescribe, and regulate the manner in which the highways, streets, avenues, lanes, alleys, public grounds, and spaces within said city shall be used and enjoyed."

Section 19 of the ordinance of November 24, 1862, provides:

"It is hereby reserved to the common council of the city of Detroit, the right to make such further rules, orders or regulations as may from time to time be deemed necessary to protect the interests, safety, welfare or accommodation of the public in relation to said railways."

The later ordinances granting consents to railways for the occupancy of the street and extensions of easements previously granted contained similar provisions.

The statutes and ordinances from which the foregoing quotations have been made, it is believed, comprise all the legislative and municipal enactments invoked by both parties as declaratory of their respective rights and powers.

August 16, 1899, the common council of Detroit passed five ordinances which the mayor approved, requiring complainant,
173 its successors and assigns, and the railway companies named in said ordinances, "to keep on sale on its cars in service at all times, tickets to be sold in strips or packages of eight tickets for twenty-five cents, each of which tickets shall be accepted by such railway company, its successors or assigns, for a single ride for any distance in either direction over all lines or routes operated by said railway company, its successors and assigns, on a car on which it is presented, and a passenger presenting such ticket or on the payment of one single fare charged by said company, shall be entitled to a transfer ticket good for a continuous ride over any other line or route of said company, provided such transfer ticket is presented on the next regular car of such other route or within fifteen minutes after such passenger leaves the car on which he received said transfer ticket." The other four ordinances contained a like provision.

It will be seen that these ordinances not only reduced the rate of fare fixed by the original consent ordinances of 1862 and ratified in that of November 14th, 1879, and the other ordinances above recited, and which had been recognized as a lawful rate over each separate route or line ever since the street railway service was introduced, but also required complainant to transfer a passenger free of charge over any other of complainant's lines or routes to which he might request a transfer ticket.

It is the claim of complainant that these ordinances violate its agreements with the city, evidenced by the ordinances granting the consent of the city to the use of the streets by complainant, its grantors and predecessors, and accepted by the latter as the terms and conditions of the easement granted, and impaired the obligation

of its contracts with complainant, its grantors and predecessors, and is null and void. A restraining order was issued, staying the enforcement of the ordinances of August 16th pending the hearing of a motion for a perpetual injunction. No answer to the bill has
174 been made, but defendant has filed certified copies of the various consent ordinances and the amendments thereto, and these copies have been submitted, in connection with the charter of the city and the acts of 1855 and 1867 and the amendments thereto, as the city's answer to the motion for injunction. Both parties concede the jurisdiction of the court under the authority of—

City Railway Co *v.* Citizens' R. R. Co., 166 U. S., 563.
Walla Walla *v.* Walla Water Co., 172 U. S., 1.
Hamilton *v.* Hamilton Gas Light Co., 146 U. S., 158.

SWAN, *J.:*

The controlling question in this case is the effect of the ordinances of consent and their acceptance by the railway companies. These ordinances were enacted under express legislative authority, and conferred on the city authorities, to prescribe the terms and conditions, an easement in the streets should be granted to street railway companies. The constitution of Michigan, section 38 of article 4, provides:

"The legislature may confer upon organized townships, incorporated cities and villages and upon the board of supervisors of the several counties, such powers of a local legislative and administrative character as they may deem proper."

With the two limitations of this broad power, this case has no concern. "Municipal corporations derive their sole source of power from legislative enactments." * * * "The power of a municipality to grant an easement in a street to a street railway is not inherent but is derived from the legislature."

Street Railway Co. *v.* City of Detroit, 110 Mich., 390.
Detroit Citizens' Street Railway Co. *v.* Detroit Railway, 171 U. S., 48.

175 In the exercise of this constitutional power, the legislature gave to the city by the acts of 1855 and of 1867 authority to grant or deny to a railway company the use of its streets for the construction and operation of its railway. The franchise of corporate capacity had been acquired by the railway companies under the laws of the State, and this was all that the legislature had to bestow. It left the acquisition of the easement in the streets to the action of each municipality from which it was sought, and by making it the subject-matter of agreement between the city and the railway company, vested the city with the power to prescribe and the grantee to accept or reject the terms and conditions of consent offered. Both parties had capacity to enter into the contract. The only limitations upon the exercise of that power was that the State required that the city's consent should be evidenced by ordinance, and that the acceptance of the railway company should be in writ-

ing. The fact that the early ordinances gave an exclusive right to the grantee has lost significance by the decisions in—

Street Railway Co. *v.* Detroit, 110 Mich., 384, and
Detroit Citizens' St. R'y Co. *v.* Detroit Railway, 171 U. S., 48.

The acceptance of the terms and conditions of the city's consent and of the obligations imposed upon and the reciprocal undertakings given by the railway company to the city constitute a sufficient consideration and supply all the essentials of a contract. It "constitutes a contractual ordinance conferring an easement which is irrevocable."

176 Mayor of Knoxville *v.* Africa C. C. A., 77 F. R., 508.
Township of Hamtramck *v.* Rapid Railway, 6 Detroit Legal News, 821.
Iron Mountain R. Co. *v.* Memphis, 96 F. R., 128.
Louisville Trust Co. *v.* Cincinnati, 76 F. R., 209 (C. C. A.).
Electric Railway Co. *v.* Grand Rapids, 84 Mich., 257.
Union St. R. Co. *v.* Circuit Judge, 113 Mich., 645, '6.
City Railway Co. *v.* Citizens Co., 166 U. S., 567.

The rule which requires a strict construction of the powers of municipal corporations and the equally familiar principle that all public grants must be strictly construed against the grantee, leaving nothing to inference, find no room for application in this case, for the grant of authority is explicit and unqualified. The legislature expressly reserved to itself in the acts of 1855 and 1867 what the constitution gave it, independent of such reservation, the right to alter, amend or repeal those acts at any time. In the train railway act the affirmation of this power in sec. 31 was thus qualified:

"But such alteration, amendment or repeal shall not operate as an alteration or amendment of the corporate rights of companies formed under it, unless specially named in the act so altering or amending this act." * * *

The legislature has not exercised its constitutional or reserved power in any particular affecting this case, except in the enactment of the second proviso to sec. 34 of the act of 1855, nor has it delegated, even if it could, the power to the city to modify its consent. On the contrary, by the second proviso of sec. 34 of the act of 1855 quoted above, and sec. 14 of the act of 1867, providing that after the consent of a municipality to the use of its streets by a street railway company has been accepted by the latter, "such township, city or village shall not revoke such consent nor deprive the company of the rights and privileges so conferred," it has ex-

177 pressly forbidden any impairment of the grant. The force of this prohibition is supplemented by sec. 29 of the same act, giving to street railway companies organized under prior legislation "the same powers, rights, protection and privileges," and subjecting them "to all the liabilities as are hereby provided for companies and corporations organized under the provisions of this act." It is plain, therefore, that whatever construction might

have been given to sec. 34 of the act of 1855 prior to the enactment March 27, 1867, of the second proviso thereto, the inviolability of its consent declared by sec. 14 of the act of 1867 was a right and protection acquired under sec. 29 which could not be nullified by a city ordinance.

People *v.* Kirsch, 67 Mich., 539, 543.

In Detroit City Railway *v.* Guthart, 51 Mich., 183, construing sec. 31 of the train railway act referred to, *supra*, Justice Cooley said:

"The rights intended by that section are the essential and important rights of corporations formed for the particular purposes which the act had in view as distinguished from the privileges and immunities which are not so fundamental, but which may nevertheless have value. An attempt to enumerate the rights here would be presumptuous and without value, but, in general terms, it may be said that the franchise to construct and operate a road and to levy and collect remunerative tolls or charges would be corporate rights."

The acts of 1855 and 1867 being *in pari materia*, no reason is perceived why this definition of the word "rights" should not be applied to the same word in sections 34 of the act of 1855 and 14 of the act of 1867.

Reiche *v.* Smythe, 13 Wall., 162.

By section 20 of the act of 1867, as we have seen, the rate of fare was made matter of agreement between "such company and the corporate authorities of the city or village where the road is
178 located," * * * and therefore "when established by agreement," a right vested in the railway company which is protected by sec. 29 of the act of 1867 quoted above, as well as by the Federal Constitution. It is replied to this that section 34 of the act of 1855 was added to that act twenty-two days after the act of 1867 was approved, and must therefore be regarded as the latest expression of the legislative will upon this subject; that under the first proviso to that section prohibiting a railway company from constructing its road in "the streets of any town or city without the consent of the municipal authorities of such town or city and under such regulations and terms and conditions as said authorities may from time to time prescribe," the city was empowered to change the rate of fare. This is not an exact statement of the amendments of sec. 34. All that part of the section preceding its second proviso was added April 12th, 1861. The second proviso that "after said consent shall have been given and accepted by the company or corporation to which the same is granted, such authority shall make no regulation or condition whereby the rights or franchises so granted shall be destroyed or unreasonably impaired or such corporation be deprived of the right of constructing, maintaining, and operating such railway in the streets in such consent or grant named pursuant to the terms thereof" was approved March 27, 1867. Its clear intent, purpose, and effect was to bring the act of 1855 into harmony with that of 1867, but primarily and beyond question to

take from the city the authority, if any it had, to prescribe further regulations and conditions "from time to time," impairing the consent thus granted and its enjoyment "pur-
179 suant to the terms thereof." This is evidenced also by section 36 of the same act, also added March 27th, 1867, by which is provided that: "It shall be a sufficient designation of the route or routes thereof (of a street railway) to declare that said railway is to be constructed and maintained in such streets or public ways of the particular city as has been or shall thereafter from time to time be granted to said company for that purpose by the proper municipal authorities of such city, and it shall be lawful to build, maintain, or extend the railway of such company according to the terms and conditions of such grant or grants." * * *

The street railway act of 1867, entitled "An act to provide for the organization of street railway companies," was approved March 5th, 1867. While it does not repeal the act of 1855, but is in part *materia*, yet by its 30th section, quoted *supra*, it so far displaced it as to require that all street railway companies thereafter formed should be organized under its provisions. This act is complete in itself and in marked contrast with the heterogeneous provisions of the act of 1855, which for want of a more suitable statute was amended to a lapt it to objects not within its original scope and purpose. The latter act was the product of a more enlightened conception of the character and necessity of the new system of urban passenger transportation, and obviously recognized the impolicy and injustice of subjecting the large investments of capital needed for such enterprises to the caprice of fluctuating municipal bodies. By leaving to the city or village authorities the right to give or withhold consent to the use of its streets by such railways "under such rules, regulations, and conditions as the local authorities might impose," it enabled municipalities to protect themselves by the ordi-
180 nance of consent, and by section 14 secured the protection of the grantee of the servitude by the acceptance of that ordinance as the irrevocable contract of the parties. The justice and necessity of this provision was approved by the same legislature twenty-two days thereafter by adding the second proviso to section 34 of the act of 1855, which, differing in phraseology, is identical inp urpose and effect with section 14 of the later act, and, as has been said, was doubtless enacted to harmonize the two acts, the latter of which was made the only basis for the organization of street railway companies thereafter. The second proviso of section 34 is therefore clearly in confirmation and adoption of the spirit and purpose of secs. 14 and 29 of the act of 1867, not in the least degree detracting from the absolute interdict of section 14 against the revocation of the consent granted. It does not profess to amend or repeal any part of the act of 1867 or to qualify the rights it granted or the liabilities it imposed. This conclusion is confirmed by the fact that the amendment of 1867 to section 34 of the act of 1855 was made by proviso, "the general purpose of which is to except the clause covered by it from the general provisions of a statute

of some provisions of it or to qualify the operation of the statute in some particular."

George Banking Co. *v.* Smith, 128 U. S., 181, or as said in Wyman *v.* Southard, 10 Wheat., 1, 30.

"The proviso is generally intended to restrain the enacting clause and to except something which would otherwise have been within it or in some measure to modify the enacting clause."

181 Both provisos to section 34 were evidently made with this intent. The first modified the broad grant of authority to street railway companies to use and operate street railways by making the consent of the city or village, under such regulations, terms, and conditions as its authorities might "from time to time prescribe," a condition precedent to the use and operation of such railways in the streets of a municipality. The second proviso modified all that preceded it in the section by prohibiting impairment of the rights and franchises named in the accepted grant or deprivation of the right of constructing, maintaining, and operating such railway in the streets in the consent named, "pursuant to the terms thereof" (of the consent). Prior to the enactment of the second proviso the city had never exercised or claimed the power to vary its consent in any degree or particular. That it was competent for the legislature to withdraw from the city the apparent authority to prescribe further terms and conditions to its consent "from time to time" is unquestionable.

Board of Park Com'rs *v.* Common Council, 28 Mich., 239.
New Orleans *v.* N. O. Water Works Co., 142 U. S., 91.

The city and the railway companies have ever since the original ordinances practically and uniformly construed the consents as controlling their mutual rights and obligations, except in those particulars in which they have been changed with the consent of both parties. What the railway companies have consent to do by such modifications as have been made furnishes no measure of its rights under the consents, or sanctions their impairment.

Lake Shore R'y Co. *v.* Smith, 173 U. S., 684, 697.
Highland Park *v.* Plank Road Co., 95 Mich., 489, 491.

182 With full knowledge of their provisions, twelve years after the enactment of the second proviso and the act of 1867, the city authorities also expressly renewed and ratified these ordinances and their acceptance as the lawful agreement of the city and companies. The rights of the parties must be measured by the law as it now stands and by their agreements thereunder.

By the ordinance of November 14th, 1879, sec. 5, "the powers and privileges conferred or obligations imposed on the Detroit City railway by the ordinance of November 24 and the amendments thereto are hereby extended and limited to thirty years from this date." By the ordinance of June 30th, 1880, a like proviso was made relative to the Fort Wayne & Elmwood Street Railway Company (later known as the Fort Wayne & Belle Isle Railway Com-

pany), confirming and extending for thirty years its grant under the ordinance of January 31st, 1865. Like ordinances were passed in favor of other lines. The practical construction given by the parties to their agreement prior to November 14th, 1879, ever since the enactment of the second proviso of sec. 34 of the act of 1855 and the act of 1867, a period of 37 years, is a fair standard in itself of their rights thereunder—Chicago *v.* Sheldon, 9 Wall., 50–54—and when supplemented and adopted by these confirmatory ordinances, which the statute authorized, the fact that the original ordinances antedated the second proviso of section 34 is a matter of no moment. The act of 1867 and the second proviso of sec. 34 of the act of 1855 should be construed as a ratification of those ordinances.

City Railway Co. *v.* Citizens' R'y Co., 166 U. S., 567, 569.

183 The ordinances of 1879 and 1880 and their acceptance had all the force and effect of a new consent which was authorized by the legislature and protected both by section 34 of the train railway act, as it then stood, and by section 20 of the street railway act of 1867 against destruction or impairment by the municipal authorities, and are sustained by sufficient consideration.

City Railway Co. *v.* Citizens' R. R. Co., 166 U. S., 568.

The argument that it is not claimed in the bill that by a reduction of fares from five to three cents the contract is "unreasonably impaired," and therefore is a "regulation" which the city authorities may lawfully make under section 34 of the act of 1855 and sec. 19 of the original-consent ordinance, is untenable.

"An objection to a law on the ground of its impairing the obligation of a contract can never depend upon the extent of the change which the law effects in it. Any deviation from its terms by postponing or accelerating the period of performance which it prescribes, imposing conditions not expressed in the contract or dispensing with the performance of those which are, however minute or apparently immaterial in their effect upon the contract of the parties, impairs its obligations."

Green *v.* Biddle, 8 Wheaton, 184.
Walker *v.* Whitehead, 16 Wall., 314.

That the original and subsequent ordinances which are recited above, accepted by the complainant and its assignors, established the right of the street railway companies to a five-cent fare is as clear as that the attempted reduction of that fare by the enactment of the ordinances of August 16, 1899, impaired the obligations of the contract of consent between the city and the companies. It is as idle to claim that the change of rate did not "unreasonably" impair that consent as to deny that the proposed reduction of fares is not

184 the deprivation of the railway company's right of constructing, maintaining, and operating such railway in the streets in such consent or grant named pursuant to the terms thereof. By any change of its terms or any regulation diminishing its value or altering its condition to the prejudice of either party a contract is

"unreasonably" impaired. It is not the degree, but the fact of impairment that determines the validity of legislation affecting it. In the case at bar the "regulation" that the company shall sell eight tickets for twenty-five cents, each of which tickets shall be valid for the carriage of a passenger for whose transportation the company, under its agreement with the city, is authorized to collect five cents is so clearly the deprivation of a right valuable to the company that the effect "goes without saying."

In Detroit *v.* Detroit and Howell Plank Road Co., 43 Mich., 140, 146, it was sought to compel the respondent company to remove two and one-half miles of its road from within the city without compensation and in violation of its chartered rights. The proceedings were taken under the act of the legislature forbidding the company to take tolls on paved roads within said limitations. Justice Campbell said:

"What the city claims a right to do is to deprive the respondent of the privilege any longer to take tolls for travel and traffic on two and one-half miles of its road. If it may do this in respect to one part of the road it may in respect to any other part. If it may exclude the respondent from Detroit it may from Howell also, or from any other township on the line, and a single section of the statute may annihilate the property of respondent altogether. A statute which could have this effect would not be a statute to amend franchises, but a statute to confiscate property. It would not be a statute of regulation, but of spoliation."

A fortiori, as the city derives all its powers from the legislature, which has prohibited its recession from its consent, the at-
185 tempted abrogation of that contract and the deprivation of the rights which it confers is an indefensible usurpation.

The argument that the ordinances of August 16th, 1899, were passed in the exercise of the "police power" of the State by its agent, the city, affords no justification to the defendant. Without attempting to specify what is included in the elastic term "police power," the view taken of the contractual relations of complainant and the city negatives the defense asserted on that ground.

In the language of Mr. Justice Peckham:

"This (the police power) must, however, be exercised in subordination to the provisions of the Federal Constitution. If in the assumed exercise of its police power the legislature of a State directly and plainly violates a provision of the Constitution of the United States, such legislation would be void."

Lake Shore R'y Co. *v.* Smith, 173 U. S., 689, 690.

These ordinances contravene the provisions of the Federal Constitution forbidding the impairment of contracts and the deprivation of property without due process of law, and equally the stat-
186 utes of Michigan, from which alone the city obtained the power to grant its consent unless that consent has reserved the power to modify its terms and conditions. This result necessitates the proposition that the ordinances of August 16th, 1899, are a proper exercise of the powers reserved to the city by section 19 of

the ordinances of consent of 1862 and 1865, and therefore do not impair the contract of the parties. This contention is without merit. That section reserved the power to enact "such further rules, orders, and regulations as may from time to time be deemed necessary to protect the interests, safety, welfare, or accommodation of the public in relation to said railways." Similar sections are contained in the later ordinances granting consent to the construction and operation of the new lines owned by complainant. The terms "further rules, orders, and regulations" for the purposes specified are inapt to express a purpose to vary the "consent, permission, and authority" granted, but are a declaration of the right and purpose of the city authorities to "further" exercise the police power in regard to all matters incident to the construction and operation of the road, such as the location of the tracks in the streets, the placing of switches and turn-tables, the repair of the pavement between the tracks, the removal or limitation of the number of tracks, in the interest of public travel (Grand Rapids Railways, 43 Mich., 433; Baltimore Trust Co., 166 U. S., 673), the frequency with which cars should be run for the public convenience, the stopping of cars at street crossings, the use of fenders, the rate of speed to be maintained, the sale of tickets (City of Detroit *v.* Railway Co., 95 Mich., 456), and generally to details of the conduct and operation of the
187 railway, which experience might show to be necessary, in addition to or in amendment of those specified in the consent, for the protection of life, the accommodation of the public, and the avoidance of injury to private property. Such regulations are not invasions of the contract rights of the company and are just and reasonable. Lake Shore & Mich. Southern Railway Co. *v.* Ohio, 173 U. S., 285, 305. But the right of the grantee to use its franchise in the city and to take the stipulated fare for the carriage of passengers are vested rights of property under the consent and clearly distinguishable from immunity from the duties and requirements necessitated by the new easement and consistent with its full enjoyment and from which even the legislature could not release the grantee.

The entire abolition of fares might for a time conduce in a degree to the material "interest" and "welfare" of the traveling public and be a public "accommodation," but the rule, order, or regulation which would require free transportation of the public would differ only in degree from the ordinances in question, which have no relation to the comfort, safety, or welfare of society.

Cooley's Cons. Lim., p. 577.

People *v.* Jackson Plank Road Co., 9 Mich., 306.

If the city may sequester two-fifths of the grantee's earnings, why may it not take all? Such a power is neither expressly given nor can it be implied. It is confiscation. Besides the considerations already stated, which conclusively repel this defense, — may be added that the canons of statutory construction also exclude it. The rates of fare having been *eo nomine* fixed by one section of each of the many ordinances of consent, and by sec. 20 of the act of
188 1867, are not within the general authority to make "rules, orders, or regulations" committed to the discretion of the

common council by section 19. The general words of that section must yield to the specific provision fixing the rate of fare.

Horner *v.* Collector, 1 Wall., 486, 490.
Reiche *v.* Smythe, 13 Wall., 162, 165.

The same rule of interpretation must be applied to municipal ordinances as obtains in construing statutes. "A thing which is given in particular shall not be taken away by general words."

Churchill *v.* Crease, 5 Bing., 180.

The fundamental principle of construction applicable both to legislative and municipal enactments is that the intention of the legislature is to govern.

Sedgwick on Stats. & Cons. Law, p. 360.
Pease *v.* Whitney, 5 Mass., 380, 382.

It has never been claimed for section 19 and the corresponding sections in all the numerous ordinances of consent passed by the common council that they authorized any interference with the rates of fare prescribed by all the consent ordinances from 1862 to 1899, inclusive. This disclaimer for a period of thirty-seven years also negatives the relation of that section to the subject of fares.

The objection to the validity of the consent ordinances that the common council was without power to grant an easement in its streets for thirty years, and therefore the rate of fares could not be fixed so as to be beyond the control of the city authorities for that period, has been determined adversely to the defendant in Detroit Citizens' Street R'y Co. *v.* City of Detroit, 64 F. R., 628, 646.

189 There is nothing in the charter of the city which sanctions the action of its common council.

The arguments have taken a wide range, and many questions have been presented relative to the power of the legislature to prescribe or change the rates of transportation of railway companies and otherwise alter or amend the organic acts under which they were formed, but those questions are foreign to the issues here involved. While the authorities cited have been carefully examined, nothing has been found which controls the determination of this case.

It follows from what has been said that the motion to vacate the restraining order must be denied, and that the complainant is entitled to an injunction against the enforcement of the ordinance of August 16, 1899, and such injunction will issue accordingly.

HENRY H. SWAN,
District Judge.

Detroit, March 15, 1900.

190 *Injunction.*

The President of the United States to the City of Detroit, William C. Maybury, and Charles Flowers, their agents, solicitors, and servants:

Whereas it has been represented to us in our circuit court of the United States for the eastern district of Michigan, in equity, on the

part of The Detroit Citizens' Street Railway Company, complainant, that it has lately exhibited its bill of complaint against you, the said City of Detroit, William C. Maybury, and Charles Flowers, defendants, to be relieved touching the matters therein complained of, in which bill it is stated, amongst other things, that you are combining and confederating to injure the complainant touching the matters set forth in the said bill, and that you are attempting and intend by means of suits, actions, and otherwise to enforce or attempt to enforce and carry out the provisions of certain pretended ordinances of the common council of the city of Detroit of August 16th, 1899, referred to in the bill of complaint in this cause, and that your actings and doings in the premises are contrary to equity and good conscience:

Now, therefore, we strictly command and enjoin you, the said City of Detroit, William C. Maybury, and Charles Flowers, your attorneys, solicitors, clerks, servants, and agents, under the penalties that may fall on you in case of disobedience, that you forthwith and until the further order of this court desist from directly or indirectly, by means of suits, actions, or otherwise, from enforcing or attempting to enforce or carry out the provisions of all or any of certain pretended ordinances of the common council of the city of Detroit of August 16th, 1899, referred to in the bill of complaint in this cause, copies of which said pretended ordinances are annexed to
191 said bill of complaint, or from enforcing or attempting to enforce or carry out the provisions of any or either of said ordinances or any portion thereof until the further order of this court.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, at the city of Detroit, on the 29th day of March, A. D. 1900.

WALTER S. HARSHA, *Clerk*,
By ADELAIDE ANDERSON VOORHEIS,
[SEAL.] *Deputy Clerk.*

Filed in the clerk's office April 2, 1900.
WALTER S. HARSHA, *Clerk*.

192 *Answer.*

In the Circuit Court of the United States for the Eastern District of Michigan, Southern Division. In Equity.

DETROIT CITIZENS' STREET RAILWAY COMPANY, Complainant,
vs.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, Mayor; Charles Flowers, Corporation Counsel, Defendants. } No. 3631.

The Joint and Several Answer of the said Defendants to the Bill of Complaint of said Complainant Herein.

These defendants, now and at all times saving and reserving to themselves all the benefit and advantage of the many errors and

insufficiencies in said complainant's bill of complaint contained, for answer thereto, or unto so much thereof as these defendants are advised that it is material for them to make answer, they answer and say:

1. These defendants admit that the complainant is a street railway corporation, organized as such under and by virtue of the provisions of chapter 95, Howell's Annotated Statutes of Michigan, and that said complainant was incorporated under the provisions of said chapter in September, 1891, and that sections 13, 14, and 20
193 of said chapter 95 of *of* Howell's Statutes are as stated and alleged in the first paragraph of complainant's bill of complaint, but these defendants deny that the provisions of said chapter 95, Howell's Annotated Statutes of Michigan, and of the sections thereof specifically referred to in said first paragraph of said bill of complaint, confers any power or authority upon said complainant in relation to the street railways owned and operated by it in the city of Detroit, but aver the fact to be that all of the rights, powers, privileges, and franchises owned or possessed by said complainant pertaining to the street railways in the city of Detroit are derived from the provisions of chapter 94 of Howell's Annotated Statutes of Michigan and the several ordinances made and passed by the common council of the city of Detroit in pursuance thereof and hereinafter specifically referred to and made a part hereof.

2. These defendants admit that shortly after the date of its incorporation, and in the month of September, 1891, the said complainant acquired, by purchase from certain street railway companies then owning the same, certain lines of street railway constructed and in operation in the city of Detroit, being lines of street railway theretofore constructed, owned, and operated by the Detroit City railway, and certain other lines of street railway owned and operated theretofore by the Grand River Street Railway Company, and that since the date of its purchase aforesaid it has continued to maintain and operate the said lines of street railway up to the time of the filing of the bill of complaint herein.

3. These defendants admit that on the twenty-fourth day of November, A. D. 1862, the City of Detroit, then being a municipal corporation organized under a special charter granted by the
194 legislature of the State of Michigan, residing in the eastern district thereof, by and through its common council, adopted a certain ordinance, and therein granting to Eben N. Wilcox, his associates, successors, and assigns, certain rights, franchises, and privileges therein contained, a copy of which said ordinance for greater certainty is hereto annexed, marked Exhibit "A," and made a part hereof; that after the passage of said ordinance said Wilcox, his associates and assigns, were duly organized into a corporation under the train or tram railway law, being chapter 94 of Howell's Annotated Statutes, by the name of the Detroit City railway, and that said corporation duly accepted said ordinance and undertook to and did carry out and perform all the terms and conditions thereof; that from time to time thereafter certain amendatory and supplementary ordinances were made and adopted by the common

council of the city of Detroit in relation to said Detroit City railway, copies of which said several amendatory and supplementary ordinances are hereto attached, marked Exhibit "B," and made a part hereof. These defendants, further answering, say that by act of the legislature of the State of Michigan approved February 2, 1861, sections 33 and 34 of said chapter 94 of Howell's Annotated Statutes were enacted, a portion of said sections reading as follows:

SECTION 33. "It shall be competent for parties to organize companies under this act to construct and operate railways in and through the streets of any town or city in this State."

SECTION 34. "All companies organized for such purposes shall have the exclusive right to use the same, provided however that no such company shall be authorized to construct a railway under this act, through the streets of any town or city, without the con-
195 sent of the municipal authorities of said town or city, and under such regulations and upon such terms and conditions as the said authorities may from time to time prescribe."

And these defendants aver that at the time of the adoption of said ordinance of November 24, 1862, and of the incorporation of said Detroit City Railway Company there was no other provision or law in force in the State of Michigan relative to the organization and operation of street railway companies within the State, and that the common council of the city of Detroit possessed no power or authority to grant to street railway companies or persons any rights, powers, privileges, or franchises except such as is contained in the aforesaid sections so added to chapter 95. By act No. 257 of the Laws of the State of Michigan of 1867 said section 34 was amended by adding thereto the following: "Provided further that after such consent shall have been given and accepted by the company or corporation to which the same is granted, such authorities shall make no regulations or conditions whereby the rights of franchise so granted shall be destroyed or unreasonably impaired; or said company or corporation be deprived of the right of constructing, maintaining an operating such railroad in the street, in such consent or grant named, pursuant to the terms thereof."

Said last-named act was approved March 27, 1867, has remained unchanged, and is still in force. By section 42 of said chapter 95, added thereto by said act of March 27, 1867, it is provided: "All the provisions of this act, as amended, shall be applicable to all corporations now organized under this act, as though specifically named."

4. These defendants, referring to the fourth paragraph of said complainant's bill of complaint and for answer thereto, spe-
196 cifically refer to said ordinance of November 24, 1862, and the several ordinances amendatory thereof and supplemental thereto, hereto attached, and referred to as Exhibit "A" in the last previous paragraph hereto.

5. These defendants, referring to the fifth paragraph of said complainant's bill of complaint and for answer thereto, respectfully refer to the ordinance therein referred to, which is likewise annexed to this answer and made a part hereof.

6. These defendants admit that an ordinance was adopted by the common council on the first day of May, 1868, granting to Matthew Prouty, Moses F. Dickinson, Wm. B. Wesson, Harvey King, and Jas. B. Mansfield, their associates, successors, and assigns, organized into a corporation under the laws of the State of Michigan, the right to construct, maintain, and operate a single or double track railway along and through Woodward avenue from Jefferson avenue to Grand River avenue, and thence along Grand River avenue to where it crosses the tracks of the Michigan Southern and Detroit and Monroe railroad-, a copy of which said ordinance and ordinances amendatory thereof and supplementary thereto, for greater certainty, is hereto attached, marked Exhibit "C," and made a part hereof; that the said grantees herein named were organized into a corporation known as the Grand River Street Railway Company in and by virtue of the provisions of chapter 94 of Howell's Annotated Statutes, and duly accepted said grant and under the terms thereof constructed and put into operation, and the said company, its successors and assigns, has ever since maintained in operation, a line of
197 street railway upon the streets therein named. These defendants aver that said railway company acquired no other or further rights, franchises, or privileges than such as is derived under the provisions of said chapter 94 of Howell's Annotated Statutes aforesaid and said ordinances, and that said railroad company, its successors and assigns, were and are at all times subject to such regulations as the common council of the city of Detroit may from time to time prescribe.

7. These defendants admit that on the sixteenth day of August, 1899, the common council of the city of Detroit passed and adopted an ordinance referred to in the seventh paragraph of said complainant's bill of complaint, being Exhibit "C" annexed to said bill of complaint.

8. These defendants admit that on the seventeenth day of April, 1886, the common council of the city of Detroit, with the approval of the mayor of said city, passed and adopted certain other ordinance-, specifically referred to in the eighth paragraph of said complainant's bill of complaint, a copy of which said ordinance, together with the ordinances amendatory thereto and supplementary thereof, is hereto annexed, marked Exhibit "D," and made a part hereof; and these defendants admit that on the sixteenth day of August, 1899, the common council of the city of Detroit adopted an ordinance amendatory thereof, a copy of which said ordinance is attached to the bill of complaint herein, marked Exhibit "D."

9. These defendants admit that on the thirteenth day of July, 1886, the common council of the city of Detroit, with the ap-
198 proval of the then mayor, passed and adopted a certain other ordinance, granting to the Highland Park Railway Company, its successors and assigns, certain rights and privileges, a copy of which said ordinance and ordinances amendatory thereof and supplementary thereto is hereto annexed, marked Exhibit "E," and made a part hereof. They admit that the complainant is now in possession and engaged in the operation of running a railway

constructed under said ordinance, but deny that it is entitled to the rates of fare fixed therein, but that the rates of fare on said line is subject to a reasonable regulation and adjustment from time to time as the interests of the public may demand. These defendants admit that on the sixteenth day of August, 1899, the common council of the city of Detroit, with the approval of the mayor, adopted an ordinance amendatory thereof, a copy of which said last-named ordinance is attached to the bill of complaint, marked Exhibit "E."

10. These defendants admit that by mesne conveyances, transfers, and leases the complainant has become the owner or lessee of all rights, franchises, and ordinance grants recited and set forth in the said bill of complaint, and of the lines of street railway constructed, maintained, and operated thereunder, and at the time of the filing of the bill of complaint herein said complainant, as owner or lessee, was maintaining and operating said lines of street railway, claiming to so operate under the provisions of said several ordinances aforesaid, but disregarding said several ordinances adopted by the common council on the sixteenth of August, 1899, copies of which are annexed to the said bill of complaint.

199 11. These defendants deny that under the terms of said original ordinance that complainant is entitled to receive and exact for the carriage of passengers over the lines of street railway owned, leased, and operated by it the full rate of five cents for a single ride for a continuous trip, in any one direction, over any one of the roads laid out and described in said ordinance; but these defendants admit that the said complainant company is at all times subject to such reasonable regulation in relation to the rates of fare and the conduct and operation of said railroad as the common council of the said city may from time to time prescribe, and that said several ordinances so made and adopted by the common council on the sixteenth of August, A. D. 1899, are reasonable regulations, made and adopted by the common council for the purpose of protecting the public against ex*h*orbitant and unreasonable rates of fare exacted by said complainant company from the public riding upon its said railway.

12. These defendants admit that the City of Detroit is a municipal corporation, organized under a special charter granted by the legislature of this State, and that whatever governmental powers it possesses it has received the same by virtue of direct and express grant from the State of Michigan, and it has possessed no governmental or legislative capacity except such as is granted by the terms of its charter and such authority as has been granted to it by statute to enter into agreements for the construction, maintenance, and operation of street railways in its streets by corporations or companies organized under chapter 94 and 95 of Howell's Annotated

200 Statutes, hereinbefore referred to; that by the grants heretofore made to the said complainant and its predecessors *and* the rights thereby created and conferred were created and conferred by the said City of Detroit in and by virtue of the authority conferred upon it by the legislature of the State of Michigan by the provisions of said chapter 94 of Howell's Annotated Statutes, and in

the making of said original ordinances grants and the fixing of the terms and conditions thereof and in fixing of the rates of fare which grantees were entitled to have and receive for the carriage of passengers the said City of Detroit exercised the power delegated to it by the legislature and as representative and agent of said State; and these defendants aver that said common council had no power or authority in the premises except such as is found in the provisions of chapter 94 of Howell's Annotated Statutes of Michigan aforesaid.

13. These defendants have no knowledge as to whether said grantors or lessors of said complainant believed it had, by virtue of the said several ordinances, full power, right, and authority to maintain and receive the rates of fare set forth therein without reduction or impairment, and that the provisions of said several ordinances with reference to said rates of fare were valid and binding, and could not be altered, amended, or repealed, and submit the same is entirely immaterial. These defendants admit that said grantors and lessors and said complainants had no right to rely upon any matters or things not contained in said chapter 94 aforesaid and in the ordinance aforesaid adopted by the common council of the city of Detroit in pursuance thereof, and that neither said chapter nor said
201 ordinance contain any provisions from which said grantors or lessors of said complainant had a right to believe that said ordinance could or would remain without alteration, amendment, or repeal.

14. These defendants admit that on the sixteenth day of August, 1899, the City of Detroit adopted in form and manner, as provided by the charter of said city, an ordinance entitled "An ordinance to amend an ordinance of the city of Detroit approved November 14, 1879," a copy of which said ordinance is attached to the said bill of complaint, marked Exhibit "A." These defendants also admit that on the said sixteenth day of August, 1899, the common council of the city of Detroit adopted a further and other ordinance, which is likewise referred to in the said fourteenth paragraph of the complainant's bill of complaint, a copy of which is annexed to said bill of complaint, marked Exhibit "B." These defendants admit that the complainant is now operating the lines of street railway constructed and owned by the Detroit, Fort Wayne and Belle Isle railway, which said lines were constructed by said company under the original ordinance of January 31, 1865, a copy of which, together with the ordinances amendatory thereof and supplemental thereto, are hereto annexed, marked Exhibit "F," and that said complainant has no other or further rights or privileges therein than as granted or conveyed in said ordinance of January 31, 1865. These defendants admit that said line is subject to the same reasonable regulation and control as the other lines hereinbefore referred to, and that said ordinance of August sixteenth, 1899, is valid and ought to be sustained as a reasonable regulation thereof.

202 15. These defendants admit that neither the complainant nor any of the grantors, predecessors, or lessees have agreed to consent to any change or modification in the terms of said various

ordinances fixing the rates of fare, nor have they or either of them consented to accept said ordinances, Exhibits "A," "B," "C," "D," and "E," and "B 2" annexed to said bill of complaint. These defendants admit that the same were passed without the solicitation, approval, or consent of said complainant or its grantors, and submit that said approval or consent was unnecessary.

16. These defendants deny that the privileges and grants mentioned and referred to in the said complainant's bill of complaint have been validly extended for periods of which considerable portions have yet to run, and submit that there has been no attempt for an extension of any franchises, rights, or privileges, except such as is contained in the said several ordinances, copies of which are annexed hereto and made a part hereof.

17. These defendants admit that the City of Detroit, in the enactment of the said several ordinances, Exhibits A, B, B 2, C, D, and E, attached — and made a part of the bill of complaint herein, assumed to enact the same in the exercise of legislative power claimed to have been conferred upon it by the State of Michigan by the terms and provisions of chapter 94 of Howell's An-otated Statutes, and they deny that chapter 95 of said Howell's Annotated Statutes has any application hereto.

18. These defendants deny that said complainant is entitled, under and by virtue of the terms of the various ordinances set out
203 in said bill of complaint, to charge the rates of fare therein named without reduction or impairment, but aver that said ordinances, Exhibits A, B, B 2, C, D, and E, annexed to said bill of complaint, are valid and binding regulations, which the defendant The City of Detroit has a right to enact and enforce.

19. These defendants admit that the said complainant, as owner or lessee, is now engaged in the operation of upwards of one hundred and thirty-four miles of street railway in the streets of the city of Detroit; that in such operation it has in use upwards of four hundred street cars charged and propelled by electricity, and has in its employ, engaged in such operation, upwards of one thousand men as motormen and conductors; that it carries thousands of passengers per day over the lines owned and operated by it, and these defendants admit that the said City of Detroit seeks and intends to compel the complainant to comply with the provisions of said ordinances, Exhibits A, B, B 2, C, D, and E.

20. These defendants have no knowledge of any of the matters or things stated and set forth in the twentieth paragraph of said complainant's bill of complaint, but submit that the same, if true, is entirely immaterial. These defendants admit *the* the City of Detroit is a citizen of the State of Michigan, a resident of the eastern district, southern division thereof; that the defendant William C. Maybury is mayor of said city; that Charles Flowers is corporation counsel of said city, both of whom are citizens of the State of Michi-
gan, residents of the eastern district, southern division, and
204 they admit that the matters in dispute in and between the parties in this suit exceed the sum of ten thousand dollars, exclusive of interest and costs, and these defendants submit that the

said complainant has not made or stated such case in its bill of complaint as entitled it to the relief therein sought or to any relief.

These defendants therefore pray that the said bill of complaint be dismissed, with reasonable costs and charges to these defendants.

CITY OF DETROIT.
F. A. BLADES, *City Controller.*
THE CITY OF DETROIT,
By WILLIAM C. MAYBURY, *Mayor.*
CHARLES FLOWERS,
Corporation Counsel.

CHAS. FLOWERS,
Solicitor for Def'ts
T. E. TARSNEY,
JASPER C. GATES, *Of Counsel.*

UNITED STATES OF AMERICA, } ss:
State of Michigan, County of Wayne, }

William C. Maybury, being duly sworn, deposes and says that he is one of the defendants in the above-entitled cause and subscribed the foregoing answer; that he has heard the same read and knows the contents thereof, and that the same is true in substance and in fact. This deponent further says that he verifies the above answer in behalf of all the said defendants.

WILLIAM C. MAYBURY.

Subscribed and sworn to before me this 19th day of April, A. D. 1900.

WILLIAM T. FITZPATRICK,
Notary Public, Wayne County, Mich.

205 EXHIBIT "A."

"An ordinance to permit certain persons to establish and locate certain railways in the city of Detroit, approved November 24th, 1862, and the amendments thereto."

Whereas, Cornelius S. Bushnell, Nehemiah D. Sperry, Eben N. Wilcox, their associates, successors and assigns, propose to organize as a body politic and corporate under a charter from the legislature of Michigan, or under the "Act to provide for the construction of train railways," approved February 13, 1855 (Laws of 1885, p. 338), and act or acts amendatory thereto, for the purpose of constructing and operating in and through the streets of the city of Detroit, city or street railways; therefore,

Be it ordained by the common council of the city of Detroit:

SECTION 1. That consent, permission and authority is hereby given, granted and duly vested in Eben N. Wilcox and his associates, who may be approved by the council, their successors and assigns, organized into a corporation, under the laws of the State of Michigan, as aforesaid, to lay a single or double

track for a railway, with all the necessary and convenient tracks for turnouts, side tracks and switches, in and along the course of the streets of, and bridges in, the city of Detroit, hereinafter mentioned, and the same to keep, maintain and use, and to operate thereon railway cars and carriages, during all the term hereinafter specified and described, and in the manner and upon the condition set forth in this ordinance. (As amended December 27, 1862.)

206 SECTION 2. The said grantees are, by the provisions of this ordinance, exclusively authorized to construct and operate railways as herein provided, on and through Jefferson, Michigan and Woodward avenues, Witherell, Gratiot, Grand River, and Brush or Beaubien streets, to Atwater street; and from Jefferson avenue, at its intersection with Woodbridge street, to Third street; up Third street to Fort street; and through Fort street, to the western limits of the city; and through such other streets and avenues in said city, as may, from time to time, be fixed and determined by the vote of the common council of the said city of Detroit, and assented to, in writing by said corporation, organized as provided in section first of this ordinance: And provided, the corporation does not assent in writing, within thirty days after the passage of said resolution of the council, ordering the formation of new routes, then the common council may give the privilege to any other company to build such route, and such other company shall have the right to cross any track of rails already laid, at their own cost and expense: Provided, always, that the railways on Grand River street, Gratiot street and Michigan avenue, shall each run into and connect with the Woodward Avenue railways, in such direction that said railways shall be continued down to, and form each of them, one continuous route to Jefferson avenue: Provided, always, that said railroad down Gratiot street may be continued to Woodward avenue, through State street, or through Randolph street, and Monroe avenue and the Campus Martius, as the grantees, or their assigns, under this ordinance, may elect. (As amended January 12, 1863.)

SECTION 3. The railways through all the streets shall be laid in the center thereof, if on a single track, and if on a
207 double track the inside rail of each track shall be laid a sufficient distance from the center of the street to enable two cars to pass on opposite tracks, and leave a space between of at least eighteen inches, and so as to accommodate the most common width of carriage wheels: Provided, however, that where a double track shall not be laid in the first instance, and a second track shall afterwards be required, such second track may be laid on either side of the first: And provided further, that in all streets which are not paved or where plank roads are laid, the tracks of said railways may be laid elsewhere than in the center thereof, as may be most convenient, under the direction of the common council, and shall least obstruct the public travel thereon. When the grantees shall complete one track of said railway, and place cars thereon for public use, they may, at any time thereafter, build a second track, so that they do not interrupt the running of their cars on the first completed track: Provided, the

consent of the common council is first obtained. (As amended January 11, 1875.)

SECTION 4. The track of said railways shall be laid of such rails as shall least obstruct the free passage of vehicles or carriages over same; and the upper surface of the rails shall be laid flush with the surface of the streets, and shall conform to the grades thereof, as now established, or as they shall, from time to time, be re-established or altered; and in case of grading, paving or otherwise, if it be necessary to relay said rails, the same shall be done at the expense of the grantees; and in all streets or parts of streets, which are not paved, the rails shall be laid in such manner as shall least
208 interfere with the public travel thereon, and as shall be authorized and approved by the city engineer. The grantees, and their assigns, shall be required to keep the surface of the streets, inside the rails, and for two feet four inches outside thereof, in good order and repair, and all snow, ice, dirt, filth, cleared and removed from the same at the expense of the grantees: Provided, however, that upon the paved portions of said streets the materials for repaving shall be supplied at the expense of the city. (As amended January 12, 1863.)

SECTION 5. The routes of all said railways shall commence in the Woodward Avenue road, at Campus Martius; from thence running on their several courses to the outer limits of the city: Provided, that in collecting fare, those portions between Atwater through Brush or Beaubien streets, and through Woodward avenue to Jefferson avenue, and between Brush or Beaubien and Third streets, on Jefferson avenue and Woodbridge street, shall be respectively deemed to belong to either of the above routes, any portion of which is then being travelled continuously by any one passenger at the same time, shall pay only one fare. (As amended January 12, 1863.)

SECTION 6. Said railways on Woodward avenue, or Witherell street, to Park lot sixty-two, through Jefferson avenue to the eastern limits, and through Jefferson avenue to Woodbridge, through Woodbridge to Third, and up Third to Fort, and through Fort street to the western limits of the city, shall be completed within six months from the thirty-first day of March, A. D. 1863; and through Gratiot street to the easterly line of the B. Chapoton farm, shall be completed
209 within three years from and after the thirty-first day of March, A. D. 1863; and through Grand River to the easterly line of the Woodbridge farm; through Michigan avenue to *the* Thompson street, shall be completed within two years from and after the thirty-first day of March, A. D. 1863; and the remainder thereof at such times as the public necessity may require: Provided, that no such railway shall be required to be laid through any part of such routes, which shall not be worked up to the established grades thereof, until the city shall have completed such work.

SECTION 7. The cars to be used on said railways shall be drawn by animals only, at a speed not exceeding the rate of six miles per hour, and shall be run as often as public convenience shall require, and the common council shall prescribe: Provided, always, that said council shall not require them to run regular cars oftener

than once in twenty minutes during fourteen hours every day, from the fifteenth day of April to the fifteenth day of October, and twelve hours every day from the fifteenth day of October to the fifteenth day of April; and the cars in use upon said railways shall be run for no other purpose than to transport passengers and their baggage, ordinary baggage, and the cars and carriages for that purpose shall be of the best style in use on such railways: Provided, that other cars and carriages may be used for cleaning said railway tracks from obstructions by snow or otherwise.

SECTION 8. The rate of fare for any distance shall not exceed five cents in any one car, or on any one route named in this
210 ordinance, except where cars or carriages shall be chartered for specific purposes: Provided, cars so chartered shall not be considered regular cars, within the meaning of the preceding section.

SECTION 9. Cars drawn in the same direction shall not approach each other within a distance of one hundred feet, except in cases of accident or at stations, or for the purpose of connecting two cars together.

SECTION 10. No car shall be allowed to stop on a cross-walk, or in front of any intersecting street, except to avoid collision or prevent danger to persons or property in the street.

SECTION 11. When the conductor of any car is required to stop at the intersection of streets to receive or leave passengers, the car shall be stopped so as to leave the rear platform slightly over the crossing.

SECTION 12. The grantees, or their assigns, shall employ careful, sober and prudent agents, conductors and drivers, to take charge of their cars while on the road, and it shall be the duty of all such agents, conductors and drivers, to keep vigilant watch for all trains, carriages or persons on foot, and especially children, either upon the track or moving towards it; at the first appearance of danger to such teams, carriages, footmen or children, or other obstructions, the cars shall be stopped in the shortest time and space possible.

SECTION 13. Conductors shall not allow ladies or children to enter or leave the cars while in motion.

211 SECTION 14. Conductors shall announce to the passengers the name of the principal squares and streets, as the cars reach them.

SECTION 15. The cars shall, at all times, be entitled to the track, and any vehicle upon the track of said railways shall turn out when any car comes up, so as to leave the track unobstructed, and the drivers of any vehicle refusing to do so, shall be liable to a fine not exceeding five dollars, on conviction before the recorder's court of said city of Detroit; and costs of prosecution shall not be at the expense of the city.

SECTION 16. The cars, after sunset, shall be provided with colored signal lights, a red light in front, and a green light in the rear.

SECTION 17. Wherever gas or water pipes or sewers are now laid in the streets herein specified, and through which railways are to pass, the said railways must be laid down and maintained subject to the right now in the city, and the gas company and the board of

public works, to take up or remove said pipes or sewers, in such manner as not unnecessarily to damage or injure said railways or their use, without claim against the city, gas company, or board of public works; and the common council expressly reserves to itself the right hereafter to lay down, or permit to be laid down, and repaired in said streets, gas or water pipes, and sewers, wherever the public or private convenience may require; the said gas or water companies, or private individuals, who shall take up pavement for the purposes aforesaid, being always required, as by the present city ordinance, to restore the pavement in the streets to its former condition.

212 SECTION 18. If said grantees, or their assigns, shall fail to complete any of the aforesaid railways within the time prescribed by this ordinance, then the rights and privileges herein granted, shall be forfeited as to any and every route herein established, which is not commenced and completed in the time herein prescribed, and the city shall be entitled to take possession thereof, provided the council does not extend the time: Provided, that if said grantees are delayed by the order or injunction of any court, and said order or injunction shall not be obtained at the instance or by the contrivance of said grantees, then the time of such delay shall be excluded from the time of completion prescribed in this ordinance. (As amended December 27, 1862.)

SECTION 19. It is hereby reserved to the common council of the city of Detroit, the right to make such further rules, orders or regulations, as may from time to time be deemed necessary to protect the interest, safety, welfare, or accommodation of the public in relation to said railways.

SECTION 20. The powers and privileges conferred by the provisions of this ordinance shall be limited to thirty years, from and after the date of its passage.

SECTION 21. Said grantees shall, on or before the tenth day of January, A. D. 1863, deposit with the controller of said city the sum of five thousand dollars in money, or in United States stocks, or in Treasury notes, bearing seven and three-tenths per cent. interest, which deposit shall be security for the completion, by said grantees, of the lines of railway which they are required to construct

213 and complete, on or before the first day of October, A. D. 1863; and if said railways shall not then be completed, the sum so deposited shall be forfeited to the city: Provided, however, that if said grantees or their assigns, cannot procure the requisite amount of rail of the Philadelphia, or other suitable pattern, to build said railways, within the time specified with a suitable and competent force, then the time shall be extended until such rail shall be obtained, and laid with a suitable and competent force: And provided further, that the time for the completion of said roads be extended not to exceed nine months, upon good and sufficient reasons being given that the iron rail cannot be procured. (As amended January 12, 1863.)

SECTION 22. The said grantees, and their assigns, shall pay to the treasurer of the city of Detroit, annually fifteen dollars on each and

every passenger, or other car, excepting only those cars used for cleaning the track on said roads, to be collected as a license for the use of the city, after the term of five years from and after this date.

SECTION 23. Wherever the said grantees, their successors or assigns, shall have organized themselves in a body politic and corporate, under the said act of the legislature of the State of Michigan, or charter thereof, all the powers and privileges granted and conferred to and upon them, by this ordinance, shall be given, granted and duly vested in said corporation, without any further action, consent, permission or authority of the common council whatever.

SECTION 24. All ordinances, or parts of ordinances heretofore made, ordained and passed, inconsistent with the provisions of this ordinance, are hereby repealed.

214 SECTION 25. Any wilful violation of, or failure to comply with the provisions of this ordinance, by said railway company, or by any agent, conductor, driver, or any person in the employ of said company, shall be punished by a fine not to exceed one hundred dollars and costs, and in the imposition of any such fine and costs, the court may make a further sentence that the offender be committed to the county jail or to the Detroit house of correction, until the payment thereof, for any period of time not exceeding six months. (As amended March 29, 1864.)

EXHIBIT "B."

The following amendments and additional sections to the above ordinance were approved August 19, 1863:

SECTION 26. Permission is hereby given the Detroit railway to build its road and track on Michigan avenue, from Woodward avenue to Fourth street, and on Gratiot street from Woodward avenue to Russell street, instead and in lieu of upon Third street and Fort street, as provided by the ordinance approved November 24, 1862, and the amendments thereto (and such building on Michigan avenue and Gratiot street, together with Jefferson and Woodward avenues, shall be deemed a compliance with the condition of deposit mentioned in section twenty-one of said ordinance).

SECTION 27. As a condition of the acceptance of this permission, the said Detroit City railway may, and shall complete its road and track on Fort street, Michigan avenue, and Gratiot street, as provided by the aforesaid ordinances, by the first day of October 1864; and a failure to complete the same by that time shall be regarded as a forfeiture of the route or routes not so completed.

215 SECTION 28. On Woodward avenue, Gratiot street and Michigan avenue, beyond the pavement, the said railway may build its track a sufficient distance from the plank road in those streets, respectively, to leave the grade track of said plank road clear, and allow teams and vehicles to pass between said track and said plank road; and upon Michigan avenue and Gratiot street, beyond the pavement, said railway may construct its track with the

"T" rail, which is used for street railways, and weighs not less than thirty-three pounds to the yard.

SECTION 29. The said railway is hereby authorized to extend its track, and run its cars, through Third street, southerly from Woodbridge street to the dock, and to lay the said track on such part of said street, westerly of the center, as they shall agree upon with the Michigan Central Railway Company.

SECTION 30. The tracks upon Jefferson avenue, Woodward avenue, Michigan avenue and Gratiot street, shall each be considered and run as one route, and subject its passengers to a payment of a single fare each: Provided, however, that all cars running north from Jefferson avenue shall run to and from Jefferson avenue, and that portion of Woodward avenue between Jefferson avenue and the routes intersecting Woodward avenue, shall be considered as making a portion of each of said routes respectively.

SECTION 31. The Detroit City railway, upon obtaining the consent of the owners of real estate on Elmwood avenue, or such real-estate owners as are affected thereby, may, and is hereby authorized to build a track from its present track on Jefferson avenue to Elmwood cemetery, and run its cars thereon at such times as will accom-
216 modate the public: Provided, however, no person shall be charged more than one cent either way upon this track; and said railway are also authorized to run a track and their cars to Mount Elliott cemetery, along Mount Elliott avenue, and charge the same rate of fare as to Elmwood cemetery.

SECTION 32. The Detroit City railway is hereby authorized to build its tracks and run its cars from its track on Jefferson avenue, upon and along Randolph street, southerly to Atwater street, and thence along Atwater street easterly to Brush street, and, as said track approaches the Detroit and Milwaukee depot, the said railway may turn the same on to the southerly side of said Atwater street, so as to run the said cars up to the sidewalk in front of the buildings of the Detroit and Milwaukee Railway Company. (Approved October 7, 1863.)

The following amendments and additional sections to the foregoing ordinance were approved January 4, 1864:

SECTION 33. Permission is hereby given to the Detroit City railway to build its road and track on and through Fort street from Third street to Woodward avenue, instead and in lieu of on and through Third street, from Fort street to Woodbridge street, as now provided by the ordinance regulating the building of the tracks of said railway, in which case said railway will be relieved of its obligation to build through Third street as aforesaid.

SECTION 34. Permission is also hereby given to said railway to build its track and road along and through Stanton street, from Fort street to the River road, and thence on and through River
217 road to the westerly limits of the city; and such building shall relieve said railway of its obligation to build its road and track from said Stanton street, along said Fort street, to said westerly limits of the city; and the said railway is hereby authorized to build its track on Fort street, from the railroad crossing, through Stanton

street and River road, to the city limits, with "T" rail, similar and of equal weight to that used on Michigan avenue.

SECTION 35. The road and track of said railway, from said western limits, through said River road, Stanton street and Fort street, and from Fort street along Woodward avenue to Jefferson avenue, shall then form one route, along which said railway shall run its cars continuously, and on which it shall be entitled to receive one fare for each passenger.

SECTION 36. The Detroit City Railway Company is authorized to connect their car depot on Second street with their main track, by constructing a branch track from their main track to said car-house, either through Second street or from Third street, through the alley between Jefferson avenue and Front street. Said company is also authorized to connect their car depot and stables on St. Antoine street with their tracks on Jefferson avenue, by constructing a branch track from St. Antoine street to said car depot and stables; such branch track to be a single track only, and to intersect said Jefferson Avenue track at right angles, and by means of turn-tables, in the same manner as the tracks of said company connect with each other at the intersection of Jefferson and Woodward avenues. (As amended December 15, 1874.)

218 SECTION 37. The time for completing the road of said company on Gratiot street, is hereby extended to November 1, 1865; provided, however, that said company shall extend their track as far as Chene street, on or before the 20th day of November next. (Approved October 8, 1864.)

SECTION 38. The track of said company shall be laid on that part of Gratiot street which is occupied by the plank road company, in such position as shall be agreed upon between the railway and plank road companies: Provided, however, that unless the line agreed on shall be along the center of said street, such agreement shall be first reported to and approved by the council. (Approved October 8, 1864.)

SECTION 39. The Detroit City Railway Company is hereby authorized to construct a second track on Woodward avenue, in accordance with the provisions of the ordinance above referred to, being section 3 of this chapter. (Approved January 11, 1875.)

SECTION 40. Permission, consent, and authority are hereby granted to the Detroit City Railway Company to construct a second, and maintain a double track in, on and throughout Jefferson avenue, in the city of Detroit: Provided, expressly, that if hereafter the pavement on said avenue shall be extended, or said avenue shall be ordered repaved, the said grantee or company shall contemporaneously with such paving or repaving, at its own sole expense, excavate, grade and pave or repave all the portion of said avenue lying within the rails of each track, and between the tracks and shall also keep their portion of the said tracks, and two feet nine inches

219 outside the outer rail of each track in proper condition and repair, and the two inner rails shall be laid equidistant from the center of the street; said company shall thus pave or repave with the same material as shall be used for the paving or repaving of

the balance of said avenue, or with material satisfactory to the common council, and the expense thereof shall include the cost of paving, repaving, grading, excavating, removing of earth, and all other necessary work, and the whole shall be done in a manner satisfactory to the common council. (Approved July 8, 1873.)

The following amendments and additional sections to the foregoing ordinances were approved August 20, 1877:

SECTION 41. Permission, consent and authority are hereby granted to the Detroit City Railway Company to construct a second, and maintain a double track in, on and through Michigan avenue, from Woodward avenue to Thirteenth-and-a-half street, in the city of Detroit. It is, however expressly understood and provided: That, as said avenue has already been ordered paved or repaved, the said grantee or company shall, or if hereafter said avenue shall be ordered paved or repaved, the said grantee or company shall contemporaneously with such paving or repaving, at its own sole expense, excavate, grade and pave, or repave all the portions of said avenue lying within the rails of each track, and between the tracks, and shall also keep their portion of said tracks, and the space of two feet and nine inches outside the outer rail of each track, in proper condition and repair; and the two inner rails of its said tracks shall be laid equidistant from the center of the street. Said company shall thus pave or repave with the same material as shall
220 be used for the paving or repaving of the balance of said avenue, or with material satisfactory to the common council, and the expense thereof shall include the cost of paving, repaving, and material for the same, grading, excavating, removing of earth and all other necessary work, and the whole shall be done in a manner satisfactory to the common council.

SECTION 42. Any provision or condition in the ordinance creating said company, or of any ordinance amendatory thereof, contravening the provisions of the foregoing section, are hereby repealed.

Additional Right of Way.

The following amendatory ordinance was approved November 14, 1879:

"An ordinance supplementary to an ordinance entitled 'An ordinance to permit certain persons to establish and locate certain railways in the city of Detroit,' approved November 24, 1862, and the amendments thereto, and for other purposes."

SECTION 1. The track of the Detroit City Railway Company's line on Gratiot avenue shall be extended and completed and operated from its present terminus to Chene street, within sixty days from this date; and from Chene street to the city limits within such period as the common council shall by resolution hereafter declare to be necessary.

SECTION 2. The Detroit City Railway Company shall, on or before June 1, 1880, extend, complete and operate their line on Woodward avenue, from its present terminus on Jefferson avenue, to At-

water street; thence through Atwater street to the Detroit,
221 Grand Haven & Milwaukee depot. And the line on Congress street heretofore operated by the Detroit & Grand Trunk Junction Street Railway Company, shall also be extended from its present terminus, through Randolph street to Atwater street, which extensions are hereby declared to be additional routes, for the construction and operation of which, under the provisions of the ordinance of November 24, 1862, granted to the City Railway Company, consent and authority is hereby given.

SECTION 3. The ordinance- of June 13, 1873, and of June 16, 1875, and all amendments thereto, granting, respectively, to the Detroit and Grand Trunk Junction Street Railway Company, and to the Central Market, Cass Avenue and Third Street Railway Company, authority to construct and operate street railways through certain streets of the city of Detroit, are hereby repealed; and the said railways constructed and operated thereunder shall hereafter be subject to and operated under the ordinance approved November 24, 1862, and the amendments thereto, granting the Detroit City Railway Company certain rights therein set forth.

SECTION 4. On the 1st day of July and January in each half year, from the 1st of January, 1880, the Detroit City Railway Company shall pay to the treasurer of the city of Detroit a tax of one per cent. during the period of this ordinance on the gross receipts of the several lines of street railway operated by said company; and the treasurer of said company shall, on or before the beginning of each half year as above mentioned, make and deliver to said treasurer a sworn statement of such gross receipts. On and after the 1st day of January, 1880, whenever any of the streets through which
222 the line of any of the railways operated by said company shall run, shall hereafter be ordered to be paved, repaved or repaired, said company shall furnish all materials, and bear the entire expenses of excavating, grading, paving, repaving and repairing that portion of the street which constitutes their railway or track, and the spaces between the lines of double tracks and all switches, said company shall at all times keep the same clean and in good order and condition; but said company shall have the right to use on the surface of their roadways either cobblestone or some similar durable and proper material to be approved by the common council.

The foregoing special tax and undertaking as to paving shall be in lieu of license and other taxes and charges for paving under existing ordinances. And it is hereby stipulated and agreed that the cars on all lines subject to this ordinance shall be operated as the public convenience may require and the common council order.

SECTION 5. The powers and privileges conferred and obligations imposed on the Detroit City Railway Company, by the ordinance passed November 24, 1862, and the amendments thereto, are hereby extended and limited to thirty years from date. And it is further agreed and stipulated that the running of cars on any street, or any fraction thereof, will be discontinued temporarily, on such occasions as the common council may, by resolution, from time to time

designate, to accommodate public processions or any other like convenience.

SECTION 6. This ordinance shall take immediate effect when written acceptances of the terms thereof are filed in the office of the city clerk of Detroit by the Detroit City Railway Company, the
223 Detroit and Grand Trunk Junction Street Railway Company, and the Central Market, Cass Avenue and the Third Street Railway Company, or their successors, and from that date all ordinances or parts of ordinances in conflict with the provisions hereof shall stand repealed; and all ordinances or parts of ordinances not in conflict herewith are hereby affirmed and continued in force.

SECTION 7. The right to amend or repeal this ordinance, in case of its violation by said company or companies, is expressly reserved.

Right of Way in Farrar Street.

The following additional ordinance, applying to and governing the Detroit City Railway Company, was approved by the common council December 11, 1880:

SECTION 1. Subject to all the provisions and requirements of chapter 50 of the Revised Ordinances of 1878, of the amendments thereof and of an ordinance entitled "An ordinance supplementary to an ordinance entitled 'An ordinance to permit certain persons to establish and locate street railways in the city of Detroit,' approved November 24, 1862, and the amendments thereto, and for other purposes," approved November 14, 1879, the Detroit City Railway Company is hereby authorized and permitted to lay, construct, use and operate a single street railway track, with suitable half-switch, on Farrar street, in the city of Detroit, from a point ten feet north of the north line of Bates street, extended to Monroe avenue, and so as to connect with the track of said company on said avenue.

SECTION 2. This ordinance shall take effect when the said railway company shall have filed in the city clerk's office its written acceptance of the terms thereof.

224 *Double Track on Griswold Street.*

The following ordinance, applying to and governing the Detroit City Railway Company, was approved by the common council July 8, 1882:

SECTION 1. Subject to all the provisions and requirements of chapter 50 of the Revised Ordinances of 1878, of the amendments thereof, and of an ordinance entitled, "An ordinance supplementary to an ordinance entitled 'An ordinance to permit certain persons to establish and locate street railways in the city of Detroit,' approved November 24, 1862, and the amendments thereof, approved November 14, 1879," the Detroit City Railway Company is hereby authorized and permitted to lay, construct, use and operate a double track on Griswold street, from State street to Larned street, and so as to connect at said streets with the present main track on said Griswold street: Provided, that the inside rails shall be laid not more than four feet apart.

SECTION 2. This ordinance shall take effect when the said railway company shall have filed in the city clerk's office its written acceptance of the terms thereof.

Double Track to Michigan Central Depot.

The following ordinance, applying to and governing the Detroit City Railway Company, was approved by the common council March 29, 1884:

SECTION 1. Subject to all of the provisions and requirements of chapter 50 of the Revised Ordinances of 1878, of the amendments thereof, and of an ordinance entitled "An ordinance supplementary to an ordinance entitled An ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 24, 1862, and the amendments thereof, approved November 14, 1879," the Detroit City Railway Company is
225 hereby authorized and permitted to lay, construct, use and operate a double track on Woodbridge street from the present terminus of its double-track line near Second street westward to the east line on Third street, and so as to connect with the main track of said street in the form of a Y, and to remove the present track across Third street in a southerly direction to a point on Woodbridge street near the south curb of said street, thirty feet west of the west line of Third street.

SECTION 2. This ordinance shall take effect when the said railway company shall have filed in the city clerk's office its written acceptance of the terms hereof.

Additional Tracks on Campus Martius.

The following ordinance, applying to and governing the Detroit City Railway Company, was approved by the common council July 21, 1894:

SECTION 1. Subject to all of the provisions and requirements of chapter 50 of the Revised Ordinances of 1878, of the amendments thereof, and of an ordinance entitled "An ordinance supplementary to an ordinance entitled An ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 24, 1862, and the amendments thereof, approved November 14, 1879," the Detroit City Railway Company is hereby authorized and permitted to lay, construct, use and operate an additional track through the Campus Martius of said city, extending from the present termination of the double track of said company, near the northerly line of said Campus Martius, southerly to the north line of Fort street, extended so as to form one continuous track for said company across the Campus Martius: Provided, that the inside rails shall be laid not more than four feet apart.

226 SECTION 2. This ordinance shall take effect when the said railway company shall have filed in the city clerk's office its written acceptance of the terms hereof.

Brush Street Line.

The following ordinance, applying to and governing the Detroit City Railway Company, was approved by the common council January 5, 1885:

SECTION 1. Subject to all the provisions and the requirements of chapter 50 of the Revised Ordinances of 1878, of the amendments thereof, and of an ordinance entitled "An ordinance supplementary to an ordinance entitled An ordinance to permit certain persons to establish and locate certain street railways in the city of Detroit, approved November 24, 1862, and the amendments thereto, and for other purposes," approved November 14, 1879, the Detroit City Railway Company is hereby authorized and permitted to lay, construct, use, and operate a single street railway track, with suitable switches, turnouts and turn-tables in and through the following streets and avenues of the city of Detroit, and the same to maintain, keep and use and to operate thereon railway cars in the manner and subject to the conditions herein contained and to all requirements and conditions set forth in the said ordinance, viz: Commencing at a point on Ferry street, adjacent to the Detroit & Milwaukee junction, running thence along Ferry street to Russell street, thence along Russell street to Farnsworth street, thence along Farnsworth street to Antoine street, thence along Antoine street to Ohio street, thence along Ohio street to Brush street, thence along Brush street to Gratiot street or avenue, and thence over the present track of the Detroit City Railway Company on Gratiot avenue, Randolph street, Monroe avenue and Woodward avenue to Jefferson avenue.

227 SECTION 2. The said grantees shall complete said railway and have the same in full operation over the entire route prescribed in section 1 of this ordinance on or before the first day of December, A. D. 1885, and said grantees shall, on or before the first day of February, deposit with the controller of said city the sum of five thousand dollars in money, or United States stocks, or in Treasury notes, which said deposit shall be forfeited to the City of Detroit if said railway shall not be constructed and in full operation on the date mentioned; and failure by said company to so construct and operate said railway within the time limited shall also be a forfeiture of the route and rights granted by this ordinance. Upon the completion of said railway as aforesaid, and whenever the same shall be in full operation, the controller shall refund to said grantees the amount so deposited as forfeit with him: Provided, that should said grantees be prevented from completing said railway by said December 1st, 1885, not due to any fault or action of said grantees, then the said grantees may be granted an extension of time within which to so complete said railway.

SECTION 3. It is hereby reserved to the common council of the city of Detroit, the right to make such further rules, orders or regulations as may from time to time be deemed by the common

council necessary to protect the interest, safety, welfare or accommodation of the city and public in relation to said railway.

SECTION 4. This ordinance shall take immediate effect when said Detroit City Railway Company shall have filed with the city clerk a written acceptance of the same, and shall execute a good and
228 sufficient bond to the City of Detroit in the sum of $50,000, to be approved by the common council and conditioned for the faithful performance of the terms of this ordinance, provided that such written acceptance and bond shall be filed before January 15, 1885.

Extension on Russell Street.

The following ordinance, applying to and governing the Detroit City railway, was approved by the common council October 9, 1885:

SECTION 1. Subject to all the provisions and requirements of said chapter 98 of the Revised Ordinances of 1884, of an ordinance entitled "An ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 24, 1862," and of supplements and amendments thereto, the Detroit City railway is hereby authorized and permitted to extend, lay, construct, use and operate a single street railway track in Russell street to Ferry street connecting the present track of said railway northerly through Russell street to the south line of the Lake Shore and Michigan Southern Railway crossing, with suitable switches, turnouts and turn-tables.

SECTION 2. This ordinance shall take effect when the said railway company shall have filed in the city clerk's office its written acceptance of the terms hereof.

The following additional ordinance, applying to and governing the Detroit City Railway Company, was approved by the common council November 19, 1889:

SECTION 1. Subject to the provisions and requirements of chapter 98 of the Revised Ordinances of 1884, and of all ordinances supplementary and amendatory thereof, and of the ordinances approved January —, 1885, authorizing the Detroit City Railway Company to construct and operate a street railway on Brush, Russell and other designated streets in said city, permission and authority are
229 hereby given to said Detroit City Railway Company, to extend its single track with suitable switches, on Russell street from Ferry avenue to the city limits, and to operate and use the same as a part of the Brush and Russell Street Railway line.

SECTION 2. The laying of said track shall be completed within thirty days from the passage of this ordinance.

Trumbull Avenue Line.

The following ordinance, applying to and governing the Detroit City railway, was approved by the common council July 31, 1885:

SECTION 1. Subject to all the provisions and requirements of chapter 50, of the Revised Ordinances of 1878, and of the amendments thereof, and of an ordinance entitled, "An ordinance supplementary

to an ordinance entitled An ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 24, 1862, and the amendments thereto, and for other purposes," approved November 14, 1879.

The Detroit City railway is hereby authorized and permitted to lay, construct, use and operate a single street railway track, with suitable switches, turnouts and turn-tables in and through the following streets and avenues of the city of Detroit, and the same to keep, maintain and use, and to operate thereon railway cars in the manner and subject to the conditions herein contained, and to all requirements and conditions set forth in said ordinance, viz: Commencing at a point on Trumbull avenue at the southerly line of Warren avenue, thence southerly along said Trumbull avenue to the center of Howard street; thence easterly along Howard street to Seventh street; thence along and over the track of the
230 Congress and Baker Street railway on Seventh street southerly to Congress street, easterly along Congress street to Randolph street and southerly through Randolph street to the terminus of said road to Atwater street.

SECTION 2. The said Detroit City railway shall complete that portion of said route from the intersection of Howard and Seventh streets to Warren avenue and have the same in full operation within one year from the date of the passage of this ordinance.

SECTION 3. It is hereby reserved to the common council of the city of Detroit the right to make such further rules, orders or regulations as may from time to time be deemed necessary by the common council to protect the interest, safety, welfare or accommodation of the city and public in relation to said railway.

SECTION 4. This ordinance shall take immediate effect when said Detroit City railway shall have filed with the city clerk a written acceptance of the same, and shall execute a good and sufficient bond to the City of Detroit in the sum of fifty thousand dollars ($50,000), to be approved by the common council, and conditioned for the faithful performance of the terms of this ordinance, provided that such written acceptance and bond shall be filed within ten days of the approval of this ordinance by the mayor.

Extension of Double Track on Michigan Avenue to Twenty-fifth Street.

The following ordinance, applying to and governing the Detroit City Railway Company, was approved by the common council September 1, 1886:

SECTION 1. Permission, consent and authority is hereby granted to the Detroit City railway to construct a second and main-
231 tain a double track in, on and through Michigan avenue, from Thirteenth-and-a-half street to Twenty-fifth street in the city of Detroit, in accordance with the provisions of the ordinance above referred to, being section 3 of chapter 98 of the Revised Ordinances of 1884.

SECTION 2. This ordinance shall take effect when the said railway company shall have filed in the city clerk's office its written

acceptance of the terms hereof, and a written agreement to pave said street in accordance with the terms of its proposition as reported upon to the board of aldermen, by a special committee, August 10, 1886.

Relative to Taxation and to Adjust Past Taxes.

The following ordinance, applying to and governing the Detroit City Railway Company, was approved and passed over the mayor's veto by the common council January 1, 1887:

SECTION 1. From the first day of July, 1882, to the thirty-*first day of December, 1896, said railway shall* pay to the city treasurer one and one-half per cent. of its gross receipts. From the first day of January, 1897, to the end of its franchise, under the ordinance approved November 14th, 1879, said railway shall pay to the city treasurer two per cent. of its gross receipts. At the expiration of each half year during the entire period above mentioned the treasurer of said railway shall submit to the city treasurer his sworn statement of such gross receipts, and shall therewith pay to the said city treasurer the percentage so found to be due.

SECTION 2. From the 1st day of July, 1882, to the end of its franchise under the ordinance approved November 14, 1879, said railway shall also pay the City of Detroit such taxes as have been up to this date and shall be thereafter levied and assessed upon the
232 lots and parcels of land and buildings thereon which are the property of said railway. Such tax shall be levied and assessed in the same manner, and shall be payable at the same time as other city taxes on lands.

SECTION 3. In adjusting the amount due under the foregoing sections from the first day of July, 1882, to the thirty-first day of December, 1886, the railway company shall be credited with all sums heretofore paid by them on account of taxes or percentages on gross receipts, no interest shall be charged to either party. The railway shall pay to the city treasurer such balance as may be found due, forthwith upon its ascertainment. Thereupon all suits and proceedings between the city and railway company shall be discontinued without costs to either party, and all unsettled claims in reference to such taxes shall be discharged by both parties.

SECTION 4. The above-mentioned percentage payments and the tax on lands provided for to accrue from January 1st, 1887, to the end of the franchise of said railway, are to be paid by said railway company and received by the city in lieu of and in discharge of all taxes, license fees and charges of any kind against the property, capital stock, rights and franchises of said company, which have been made or may be levied, assessed or imposed under any present or future law or authority. If hereafter said railway shall be either directly or indirectly charged with or required to pay any other or further tax, license fees or charges, then the amount so paid shall be credited by the city to said railway, upon the payment of the percentage payments to become due under the ordinance; and
233 the obligation made to such percentage payments shall be satisfied and discharged to that extent; and, in no event shall said

railway be liable to pay under any form of tax, license or charge, any sums in excess of said percentage, and the tax on the lands of said railway as above provided. Provided, however, that nothing herein contained shall be construed as a consent on the part of the Detroit City railway to the levying or collecting of any further tax, license or charge than the tax on the gross receipts, hereinbefore provided for, and the tax on its lands hereinbefore specified; nor shall any such other or further tax, license or charge be valid or binding without the consent in writing of the said Detroit City railway.

SECTION 5. Subject to the provisions of this ordinance, which are only intended to change the provisions of the ordinance of November 14, 1879, as to the percentage on gross receipts, all ordinances and parts of ordinances not inconsistent herewith are hereby affirmed and continued in force.

SECTION 6. This ordinance shall take effect when the Detroit City railway has filed its written acceptance of the same with the city clerk.

Extension of Third Street Line to Holden Road.

The following ordinance, applying to and governing the Detroit City railway, was approved by the common council July 26, 1887:

SECTION 1. Subject to all the requirements and provisions of chapter 50 of the Revised Ordinances of 1878 and of the amendments thereof, and of an ordinance entitled, "An ordinance supplementary to an ordinance entitled An ordinance to permit certain persons
234 to establish and locate street railways in the city of Detroit, approved November 24, 1862, and the amendments thereto, and for other purposes," approved November 14, 1879, and ordinances supplementary thereto, the Detroit City Railway Company is hereby authorized, permitted and required to lay, construct, use and operate a single street railway track with suitable switches, turnouts and turntables, in and through the following streets and avenues in the said city of Detroit, and the same keep, maintain, and use, and to operate thereon street railway cars, to wit: From the present terminus of the line of track of said Detroit City railway on Third street or avenue in said city along said Third street or avenue to the Holden road; thence in a westerly direction along the center of said Holden road to the point where the track of the Detroit and Bay City Railroad Company crosses said Holden road.

SECTION 2. That portion of said route from the present terminus of the track on Third street or avenue to the Holden road is to be constructed and laid contemporaneously with the paving of said Third street or avenue to the Holden road; and that portion of said route on the Holden road to be constructed and laid before the first day of January, A. D. 1888, and the whole of said extension to be in operation by January first, 1888, in connection with and as a part of the line of said Detroit City railway, now in operation on said Third street or avenue.

SECTION 3. This ordinance shall take immediate effect when said Detroit City railway shall have filed with the city clerk a written

acceptance of the same, and shall execute a good and sufficient
235 bond to the City of Detroit in the sum of twenty-five thousand dollars ($25,000), to be approved by the common council, and conditioned for the faithful performance of the terms of this ordinance, provided that such written acceptance and bond shall be filed within ten days after the approval of this ordinance.

Extension of Trumbull Avenue Line.

The following ordinance, applying to and governing the Detroit City Railway Company, was approved by the common council October 27, 1888:

SECTION 1. Subject to all the provisions and requirements of chapter 98 (of the Revised Ordinances of 1884, of the amendments thereof), and of an ordinance entitled "An ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 24, 1862, and of supplements and amendments thereto," the Detroit City railway is hereby authorized and permitted to extend, lay, construct, use and operate a single street railway, northerly through Trumbull avenue to the southerly line of the Lake Shore and Michigan Southern Railway crossing, with suitable switches, turnouts and turn-tables.

SECTION 2. The said Detroit City railway shall have said track completed and the same in full operation within sixty days from the date of the passage of this ordinance.

SECTION 3. It is hereby reserved to the common council of Detroit the right to make such further rules, orders or regulations as may from time to time be deemed by the common council necessary to protect the interest, safety, welfare or accommodation of the city and public in relation to said railway.

236 SECTION 4. This ordinance shall take immediate effect when said Detroit City railway shall have filed with the city clerk a written acceptance of the same, and shall execute a good and sufficient bond to the City of Detroit in the sum of ten thousand dollars ($10,000), to be approved by the common council, and conditioned for the faithful performance of this ordinance, provided that such acceptance and bond shall be filed within ten days of the approval of this ordinance by the mayor.

East Fort Street Line—Chene Street Line—Cass Avenue Extension—Double Tracks in Jefferson Avenue and Gratiot Avenue—Mack Street Line.

The following ordinance, applying to and governing the Detroit City railway, was approved by the common council January 3, 1889:

SECTION 1. Subject to all the provisions and requirements of chapter 98 of the Revised Ordinances of the City of Detroit for the Year 1884, and amendments thereof and supplements thereto, and of an ordinance entitled, "An ordinance supplementary to an ordinance to permit certain persons to establish and locate street railways in the city of Detroit, approved November 14, 1879," and all amend-

ments and supplements thereto, the Detroit City railway is hereby authorized and permitted to lay, construct, use and operate a street railway with convenient tracks for turnouts, side tracks, curves and switches in and through the following streets and avenues in the city of Detroit, and the same to keep, maintain and use, and to operate thereon street railway cars in the manner and subject to the conditions herein contained, and to all the requirements and conditions set forth in chapter 98 of the Revised Ordinances of 1884, and in said ordinance and amendments and supplements thereto, viz:

237 Commencing at a point — Congress street east where its present track on said Congress street turns on to Randolph street, connecting herewith, running thence easterly along said Congress street east to its intersection with Brush street, thence northerly on Brush street to its intersection with Fort street east; thence easterly along said Fort street easterly to Mt. Elliott avenue, thence along said Mt. Elliott avenue to the Jefferson Avenue double track, thence along said Jefferson Avenue double track to the easterly limits of the city.

Also, to extend its tracks on Cass avenue from where it now turns on to Ledyard street northerly in, along and through said Cass avenue to the Detroit & Bay City Railroad crossing.

Also, to extend its double street railway track in, along and through Jefferson avenue from the present easterly terminus of its double track on said Jefferson avenue to the easterly limits of the city of Detroit.

Also, to lay, construct, use and operate an additional track on Gratiot avenue from Monroe avenue to the easterly limits of the city of Detroit, so that a double track may be laid, used and operated through the entire length of said Gratiot avenue.

Also, to lay, construct, use and operate a single street railway track in, along and through Mack street, from its conjunction with Gratiot avenue in an easterly direction along said Mack street to the city limits.

Also, to connect the tracks on Michigan avenue by suitable extensions and curves with the present track on Monroe avenue, so that cars may be brought through and over the same between the said two streets.

238 Also, to lay, construct use and operate a single street railway track in, along and through the following streets and avenues viz: Commencing at a point on Joseph Campau avenue, near the bank of the Detroit river, running thence northerly along said Joseph Campau avenue to its intersection with Atwater street, thence in a westerly direction along Atwater street to its intersection with Chene street, thence in, along and through Chene street in a northerly direction to the city limits.

Also, permission is hereby granted to the Detroit City railway, if it shall desire so to do, to run its cars from any of its lines over and upon any street railway track which may be authorized and constructed on the bridge, and approaches thereto, to Belle Isle

park, to said park, with all the privileges and rights which may be granted to any other street railway.

SECTION 2. The track hereby authorized on Congress Brush and Fort street shall be constructed and in operation within one year from the date of the passage of this ordinance; and cars shall run thereon often enough to fully accommodate public travel; and the double track authorized to be laid on Jefferson avenue shall be constructed and in operation within six months from the date of the passage of this ordinance. The track authorized to be constructed on Joseph Campau avenue, Atwater and Chene streets shall be constructed and in operation within one year from the date of the passage of this ordinance. The double track hereby authorized on Gratiot avenue shall be constructed and in operation to Mt. Elliott avenue within one year from the date of the passage of this ordinance, and to the city limits, contemporaneously with the pavement
239 of said Gratiot avenue beyond the present pavement; and the track hereby authorized to be laid on Mack street shall be constructed and in operation within one year from the date of the passage of this ordinance. The track hereby authorized to be laid on Cass avenue shall be constructed within such time as shall be hereafter directed by its common council.

SECTION 3. Permission and authority is hereby given to the said Detroit City railway to run its cars at a rate of speed not exceeding ten miles an hour, and is hereby required to run thereon at an average — of not less than six miles per hour, and whenever it shall be deemed advisable to substitute in lieu of animal power such system of electric or other motive power, except steam, as shall seem best in its judgment for the purpose of properly and safely conducting its business in said city of Detroit upon all or any of said lines now in use and operated or hereafter to be in use and operated by said company, said change to be made under the supervision of the board of public works.

SECTION 4. The above-mentioned additional lines shall be operated in connection with and as a part of the present system of the Detroit City railway, but the permission and authority hereby given shall be inoperative and void, unless the said Detroit City railway shall file a written acceptance thereof within thirty days from the date of the passage of this ordinance, in which the said company shall agree to do and perform the following with reference thereto, to wit:

(*a.*) It shall carry passengers from its Cass Avenue and Third
240 Street, Trumbull Avenue, Michigan Avenue, and Congress and Baker Street lines to any point on the proposed line on Fort street east, or to the easterly terminus thereof, for a single fare of five cents for one continuous trip, and from the easterly terminus of the proposed line on Fort street east, or from any point thereon, to any point on Congress and Baker Streets, Michigan Avenue, Trumbull Avenue and Cass Avenue and Third Street lines for a single fare of five cents for one continuous trip.

A passenger paying a single fare of five cents on the line hereby authorized to be constructed on Joseph Campau Atwater and Chene streets, shall be entitled to be transferred at Fort street to and con-

veyed by cars running on the proposed line on Fort street east to any point on said Fort Street line in one continuous trip, or to be transferred at Gratiot avenue to the line on said Gratiot avenue, to be carried to any point on said Gratiot Avenue and Michigan Avenue lines in one continuous trip. A passenger paying a single fare of five cents on the line hereby authorized to be constructed on Fort street east shall be transferred at Chene street to said Chene Street line and carried to any point thereon in one continuous trip.

(*b.*) A passenger paying a single fare of five cents on the Gratiot Avenue line shall be entitled to a continuous ride on said Gratiot Avenue line and proposed lines on Chene street and Fort street to the Belle Isle bridge; and from the Belle Isle bridge in reverse direction, over the Fort Street east, Chene Street and Gratiot Avenue lines for a single fare of five cents.

(*c.*) It shall arrange for and carry out an interchange of traffic on the Michigan and Gratiot Avenue lines, either by transfer
241 of passengers or by running through cars, so that passengers will be carried from any point on either of said roads to any point on the other for a single fare of five cents for one continuous trip.

(*d.*) Such arrangements shall be made by this company that within two months after this ordinance shall have been accepted by said company it shall carry such passengers as shall have taken passage on the cars between the hours of 5.30 o'clock and 7 o'clock in the morning, and between the hours of 5.15 o'clock and 6.15 o'clock in the afternoon over any of its lines in said city for a single fare, to be paid for by a ticket sold at the rate of eight tickets for twenty-five cents, for one continuous trip, with all the rights of transfer and through carriages provided for in paragraphs "A," "B," and "C" of this section.

(*e.*) It shall within six months take up and remove its turn-table now at the intersection of its Jefferson and Woodward Avenue lines, and shall run the cars on the said Woodward Avenue lines to the foot of Woodward avenue, and shall construct and maintain all necessary and convenient tracks for switching purposes south of Atwater street on Woodward avenue.

SECTION 5. All rights conferred and obligations imposed under the terms of this ordinance shall continue during the period by the ordinance approved November 14, 1879, that is to say, until November 14, 1909.

SECTION 6. It is hereby reserved to the common council of the city of Detroit, the right to make such further rules, orders or regulations as may from time to time be deemed necessary by the common council to protect the interest, safety, welfare or accommodation of the city and public in relation to said railway.

242 SECTION 7. This ordinance shall take immediate effect when said Detroit City railway shall have filed with the city clerk a written acceptance of the same, and shall execute a bond to the City of Detroit, in the sum of $50,000, to be approved by the common council, conditioned for the faithful performance of the terms of this ordi-

nance, provided such written acceptance and bonds shall be filed within thirty days of the approval of this ordinance by the mayor.

Extension of Line on Michigan Avenue to Westerly City Limits.

The following ordinance, applying to and governing the Detroit City railway, was approved by the common council April 5, 1899:

SECTION 1. Subject to all the provisions and requirements of chapter 98 of the Revised Ordinances of the City of Detroit, the year 1884, and of an ordinance supplementary to an ordinance entitled, "An ordinance to permit certain persons to establish and locate street railways in the city of Detroit," approved November 24, 1862, and the amendments thereof, approved November 14, 1879, and all ordinances supplementary thereof and in amendment thereto, the Detroit City railway is hereby authorized and permitted to lay, construct, use and operate a double track on and through Michigan avenue in said city of Detroit, from the present terminus of its double track on Michigan avenue, westerly to the city limits.

SECTION 2. Said track shall be laid contemporaneous with the pavement of said Michigan avenue, and only so far as said street is or may hereafter be paved, and the expense of paving the portions of said street between the outer rails of said track shall be paid by said company.

243 *Providing for the Sale of Certain Tickets on Cars.*

The following amendment, applying to and governing the Detroit City railway, was approved by the common council February 4, 1893:

Whereas, section 6 of an ordinance approved January 3, 1889, being part of chapter 109 of the Revised Ordinances of the City of Detroit for the Year 1890, provides that the right to make such rules, orders and regulations as may from time to time be deemed necessary to protect the interests, welfare and accommodation of the public in relation to the Detroit City railway, its successors and assigns, is reserved to the common council of the city of Detroit; and

Whereas, paragraph D of section IV of said ordinance approved January 3, 1889, with reference to said railway, being part of chapter 109 of the Revised Ordinances of the City of Detroit for the Year 1890, provides that said railway company shall issue and sell tickets for fare at the rate of eight (8) tickets for twenty-five cents, to be good for transportation between certain hours of each day.

It is hereby ordained by the people of the city of Detroit:

SECTION 1. It shall be the duty of the Detroit City Railway Company, its successors and assigns, to furnish and provide the conductor of each and every car operated by the said company within the limits of the city of Detroit with tickets to be good for transportation between the hours of 5.30 and 7 a. m. and 5.15 and 6.16 p. m., each ticket to be good for transportation as provided for in said ordinance. (As amended February 26, 1895.)

244 SECTION 2. The Detroit City Railway Company, its successors and assigns, shall issue and sell by its conductors or other duly authorized agents, to any person or persons applying therefor upon each and every car operated by said company within the limits of the city of Detroit, tickets to be good for transportation as provided in said ordinance of January 3, 1889, between the hours of 5.30 and 7 a. m. and 5.15 and 6.15 p. m., at the rate of eight (8) tickets for twenty-five cents, each ticket to be good for one fare. (As amended February 26, 1895.)

SECTION 3. For each and every day in which the said Detroit City railway, its successors and assigns, shall neglect to provide tickets and refuse to sell to persons applying therefor as herein provided, the said company may be complained of as for a distinct offense and punished as hereinafter provided.

SECTION 4. Any violation — or failure to comply with the provisions or requirements of this ordinance shall be punished by a fine not to exceed three hundred dollars and costs, and such fine when so imposed may be recovered from the person or corporation so convicted in an action at law in the proper court.

Additional Tracks on Griswold, Woodward, and Atwater.

The following amendment, applying to and governing the Detroit Citizens' Street Railway Company, was approved October 14, 1892, by the common council of Detroit:

SECTION 1. It is hereby ordained by the people of the city of Detroit: Consent, permission and authority is hereby granted to the Detroit Citizens' Street Railway Company to construct,
245 maintain and operate street railways with the necessary tracks, cross-over tracks and turnouts, in and through the following streets and avenues in the city of Detroit:

1. To construct, maintain and operate a single track from the existing tracks operated by said company at the intersection of Griswold street and Grand River avenue, southerly along Griswold street and connecting with the existing track operated by said company on Griswold street, near the corner of State street.

2. A single track from the existing track operated by said company at the intersection of Griswold street and Larned street west, thence southerly along Griswold street to Atwater street, and thence through Atwater street, connecting with the tracks on Woodward avenue.

3. A single track from the north line of Jefferson avenue on Woodward avenue and thence through Woodward avenue to Atwater street.

SECTION 2. The said railways hereby authorized shall be operated as part of the system of railways authorized by the ordinance approved May 1st, 1898, granting certain privileges to Nathaniel Prouty and others for a street railway along Grand River avenue, and the ordinance amendatory thereof and supplementary thereto, and shall be subject to the terms and conditions thereof. The same may be operated through Griswold street over the line of railway

now existing thereon, subject to all the rights, whatever they may be, which were granted under an ordinance granting authority to the Central Market, Cass Avenue, and Third Street Railway Company and its assigns, to construct and operate a street railway on
246 Griswold. But this ordinance shall not be held or treated as extending the time when the rights and privileges of maintaining and operating street railways under said ordinance approved May 1. 1868, or said supplemental ordinances expire; nor shall the same prejudice or waive any claim which the City of Detroit may have as to the legal enactment of said ordinances, or as to any of the terms or conditions thereof. Nor shall the same prejudice or waive any claim of said city in the suit now pending between the said city and the Detroit Citizens' Street Railway Company and others. No additional fare shall be required for carriage over any tracks hereby authorized. Switches on the tracks hereby authorized shall not be permitted.

SECTION 3. It is further ordained that only two railroad tracks shall be maintained and operated by the said Detroit Citizens' Street Railway Company on Woodward avenue between Grand River avenue and Michigan avenue, and the westerly track heretofore operated by the Detroit City railway shall be removed, and upon the following terms, agreements and conditions:

1. The track heretofore operated by the Grand River Street Railway Company, the extension of which from *which* its present terminus at Jefferson avenue to Atwater street is hereby permitted, shall be part of the system of railways authorized under the ordinance approved May 1st, 1868, and may be connected with the other lines or tracks of the Detroit Citizens' Street Railway Company at any points where said company may desire to make convenient connections with that track, so that cars from other lines may be operated thereon and cars on said track may be likewise operated on other lines and tracks.

247 2. The right of maintaining and operating a street railway between Grand River avenue and Jefferson avenue by said Detroit Citizens' Street Railway Company shall be exclusive, and the common council of the city of Detroit shall not give its consent to the construction or operation of any railroad track by any street railway company on Woodward avenue between Grand River and Jefferson avenue- before the expiration of the time when the right to maintain a railway on Woodward avenue heretofore granted to the Detroit City railway shall expire. And said Detroit Citizens' Street Railway Company may reset its track for the removal of which this agreement is made, if said common council shall, within the time above limited, grant consent to any other street railway company to construct a track on Woodward avenue, between Grand River avenue and Jefferson avenue.

4. The said Citizens' Street Railway Company shall within thirty days from the date *of* when this ordinance shall take effect pay to the treasurer of the City of Detroit any costs heretofore paid of repaving the space to be occupied by the tracks that are hereby

authorized, on all streets or portions of streets upon which said tracks are laid.

5. Any street railway to whom the privelege may be granted to construct a line of street railway through any of the streets mentioned in this ordinance and in respect to which privilege is hereby granted, may use for operating its road all of the additions to the line of said Citizens' railway as are herein and hereby authorized, upon such terms as to compensation as shall be determined by arbitrators to be appointed as follows: One of the arbitrators to be appointed by the Detroit Citizens' Street Railway Company, and one to be appointed by the street railway company to whom such privilege may be
248 granted and if they are unable to agree upon the compensation to be paid to said Citizens' Street Railway Company for the use of such track, then a third arbitrator shall be appointed by the then presiding judge of the circuit court for this county, and any two of the persons so appointed may make such award.

SECTION 6. Said Citizens' Street Railway Company shall file its acceptance of the terms hereof with the city clerk within thirty days from the date when this ordinance shall take effect, otherwise the same shall be void.

SECTION 7. An ordinance authorizing the Detroit Citizens' Street Railway Company to construct, maintain and operate railway tracks on certain streets approved August 30th, 1892, be and the same is hereby repealed.

SECTION 8. This ordinance shall take immediate effect.

Double Track on Trumbull Avenue.

The following ordinance, applying to and governing the Detroit Citizens' Street Railway Company, was approved and passed over the mayor's veto by the common council September 10, 1895:

SECTION 1. Subject to all the provisions and requirements of chapter 109, of the Revised Ordinances of the City of Detroit, for the Year 1890, and of all amendments and supplements thereto, consent, permission and authority is hereby given to the Detroit Citizens' Street Railway Company to change its present single track on Trumbull avenue to a double track from Michigan avenue to the Lake Shore & Michigan Southern Railway crossing, and to maintain
249 and operate the same as a double-track line.

If the city should at any time authorize the widening of said street and paving, it shall be paid by the Citizens' Company its successors and assigns, and not the abutting property-holders.

SECTION 2. This ordinance shall take effect, if accepted in writing by said company within ten days after its final passage.

Double Track on Dix Avenue and Baker Street.

The following ordinance, applying to and governing the Detroit Citizens' Street Railway Company, was approved by the common council September 17, 1895:

SECTION 1. Subject to all the provisions and requirements of chap-

ter 109 of the Revised Ordinances of the City of Detroit, for the Year 1890, and of all amendments and supplements thereto, consent, permission and authority is hereby given to the Detroit Citizens' Street Railway Company to change the single track on Dix avenue to a double track from the westerly city limits along Dix avenue to Twenty-fourth street; and to construct a single track on Dix avenue from Twenty-fourth to Twenty-third street, and to construct a single track on Twenty-third street from Dix avenue to Baker street; and to change the single track to a double track on Baker street from Sixteenth street to Trumbull avenue.

250 SECTION 2. The Baker Street line of the Detroit Citizens' Street Railway Company, after the Porter and Abbott Street lines have been put in operation, shall run through Michigan avenue to Woodward avenue to Congress street, and east on Congress street over what is known as a loop line to Mt. Elliott avenue.

That in consideration of crossing Baker Street bridge over the M. C. R. R. the company shall share the present structure in such shape as to make it safe for motor cars to cross, and be responsible and hold the city harmless from any damage from accident or otherwise in consequence of the use of said bridge for street railway purposes; and provided further, that when the city reconstructs said Baker Street bridge the said Detroit Citizens' Street Railway Company, grantee herein, shall pay to the city 25 per cent. of the cost of said reconstruction — the time the contract for such reconstruction is made; and further provided that when a street is widened the cost of the widening and the additional pavement made necessary, the expense shall be born by the said Citizens' Street Railway Company, provided that whenever the Detroit railway shall relinquish its right to construct and operate a railway on Lafayette avenue, the Detroit Citizens' Street Railway Company will permit said Detroit railway to have the joint use of their tracks on Michigan avenue from Porter to Abbott street to the east line of Griswold street on the payment by said Detroit railway to said Detroit Citizens' Street Railway Company — the sum of ten thousand dollars, if said relinquishment of Lafayette avenue and the said payment by said Detroit railway be made before any track is laid on Lafayette avenue by said Detroit railway, its successors or assigns.

251 SECTION 3. This ordinance shall take effect, if accepted in writing by said company, within ten (10) days after its final passage.

Double Track on Mack Avenue.

The following ordinance, applying to and governing the Detroit Citizens' Street Railway Company, was approved by the common council October 26, 1895:

SECTION 1. Subject to all the provisions of chapter 109, of the Revised Ordinances of the City of Detroit, of the Year 1890, and of all amendments and supplements thereto, consent, permission and authority is hereby given to the Detroit Citizens' Street Railway Company to change its present single track on Mack avenue

to a double track, and to operate and maintain same as a double-track street railway.

SECTION 2. Transfers without additional charge shall be given, good for one continuous ride, from the Gratiot Avenue line to the Mack Avenue line, said transfers to be good at the junction of the two avenues.

SECTION 3. This ordinance shall take immediate effect if accepted in writing by the grantee within ten (10) days after its final passage.

EXHIBIT "C."

Grand River Street Railway.

The following original ordinances, applying to and governing the Grand River Street Railway Company, was approved by the common council of Detroit on May 1, 1868:

Whereas, Nathaniel Prouty, Moses F. Dickinson, William B. Wesson, Harvey King and James P. Mansfield, their associates, successors and assigns, propose to organize as a body politic and corporate,
252 under a charter from the legislature of Michigan, or under the "Act to provide for the construction of train railways," approved February 15, 1855, (Laws of 1855, p. 338), for the purpose of constructing and operating in and through the streets of the city of Detroit: therefore,

Be it ordained by the common council of the city of Detroit:

SECTION 1. That consent, permission and authority is hereby given, granted and duly vested in the said Nathaniel Prouty, Moses F. Dickinson, William B. Wesson, Harvey King, James P. Mansfield, their associates, successors and assigns, organized into a corporation under the laws of the State of Michigan as aforesaid, to lay a single or double track for a railway with all the necessary and convenient tracks for turnouts, side tracks and switches in and along the course of the streets and bridges in the city of Detroit hereinafter mentioned, and the same to keep, maintain and use and to operate thereon railway cars and carriages during all the time hereinafter specified and prescribed, and in the manner and upon the conditions set forth in the ordinance: Provided, that nothing therein contained shall be construed to interfere with the legal rights of any of the plank roads running in the city of Detroit.

SECTION 2. That said grantees are hereby, by the provisions of this ordinance, authorized to construct and operate railways, as herein provided, through Woodward avenue from Jefferson avenue, through said first-named avenue to its intersection with Grand River avenue, and from thence on through said Grand River avenue, to the point of intersection with the railway tracks of the Michigan Southern and Detroit, Monroe and Toledo Railway tracks, and
253 also on or through any other street or streets running between the western terminus above specified, and Woodward avenue to the Detroit river as the common council shall by resolution designate; provided, that the track from Fort street to Jefferson avenue

shall be laid under the direction of the committee on streets and the city engineer. (As amended June 26, 1871.)

SECTION 3. All railways built, constructed or maintained under the provisions of this ordinance, shall be laid in the center of any and each street wherein the same are built, constructed or maintained (save upon Woodward avenue), if on a single track; and if on a double track, the inside rail of each track shall be laid within four feet and two inches of the center of the street; the said rails shall be laid four feet eight inches apart, so as to accommodate the most common width of carriage wheels; provided, nevertheless, that in all streets which are not paved, or when plank roads are laid, the tracks of said railway may be laid elsewhere than in the center thereof, as may be most convenient, under the direction of the common council, and shall least obstruct the public travel thereon. When the grantees shall complete one track of the said railway, and place cars thereon for public use, they may at any time thereafter, within five years, build a second track, so that they do not interrupt the running of their cars on the first completed track: Provided, that the consent of the common council is first obtained.

254 SECTION 4. The track of said railway shall be laid of such rails as shall least obstruct the free passage of vehicles and carriages over the same, and the upper surface of the rails shall be laid flush with the surface of the streets, and shall conform to the grades thereof as now established, or as they shall, from time to time, be re-established or altered; and in case of grading, paving or otherwise, if it be necessary to relay said rails, with necessary ties and stringers, the same shall be done at the expense of the grantees; and in all streets, and parts of streets, which are not paved, the rails shall be laid in such manner as shall least interfere with the public travel thereon, and as shall be authorized and approved by the city engineer. The grantees, or their assigns, shall be required to keep the surface of the streets inside of the rails in good order and repair, and all snow, ice, dirt and filth cleaned and removed from such portions of the streets at the expense of the grantees, and in such manner as not to obstruct travel in any part of the street.

SECTION 5. Consent, permission and authority is hereby given, granted and vested to the Grand River Street Railway Company to lay and construct an additional track along Woodward avenue, from Grand River avenue to the north line of Fort street, so as to form a complete and double track between said two points. Such additional track to be laid under the supervision and direction of the board of public works, and subject to all the conditions and provisions of the ordinance governing and controlling said railway; provided, however, that such authority and permission and all rights therein, may be revoked and withdrawn by the common

255 council of said city should any transfer, assignment or consolidation of said railway company be made or effected with any other railway company or corporation. The cars to be used on said railway shall be drawn by animals only, at a speed not exceeding six miles per hour, and shall be run at intervals not exceeding one reg-

ular car every five minutes during twelve hours each day, from Lincoln avenue to Jefferson avenue, and up to eleven o'clock at night. The cars and carriages used by said grantees shall be of the best style used on street railways in said city, and shall be used for no other purpose than to transport passengers and their ordinary baggage: Provided, that other cars and carriages may be used for cleaning said railway tracks from obstructions by snow and otherwise. (As amended March 3, 1883.)

SECTION 6. The rate of fare for any distance shall not exceed five cents in any one car, or on any one route named in this ordinance, except where cars or carriages shall be chartered for specific purposes: Provided, cars so chartered shall not be considered regular cars within the meaning of the preceeding section.

SECTION 7. Cars drawn in the same direction shall not approach each other within a distance of one hundred feet except in cases of accident or at stations, or for the purpose of connecting two cars together.

SECTION 8. The said grantees shall complete their railway from Woodward avenue through Grand River street, to the easterly line in Woodbridge farm, contemporaneously with the paving of said street to said easterly line of the Woodbridge farm; said road
256 thence from the easterly line of the Woodbridge farm to be completed to the westerly limits of the city as soon as the public necessity requires it, and the common council shall be the judge of such necessity, and shall also complete their road on any street designated by the common council, from Grand River street to the Detroit river, or to Jefferson avenue, within three months after such designation shall be made by said council.

SECTION 9. No car shall be allowed to stop at a cross-walk, or in front of any intersecting street, except to avoid collision or to prevent danger to persons or property in the street.

SECTION 10. When the conductor of any car is required to stop at the intersection of streets, to receive or leave passengers, the car shall be stopped so as to leave the rear platform slightly over the crossing.

SECTION 11. The grantees or their assigns, shall employ careful, sober and prudent agents, conductors and drivers, to take charge of their cars while on the road, and it shall be the duty of all such agents, conductors and drivers to keep vigilant watch for all trains, carriages or persons on foot, and especially children, either upon the track, or moving towards it; at the first appearance of danger to such teams, carriages, footmen or children, or other obstructions, the cars shall be stopped in the shortest time and space possible.

SECTION 12. Conductors shall not allow ladies or children to enter or leave the cars while in motion.

257 SECTION 13. Conductors shall announce to passengers the names of the principal squares and streets as the cars reach them.

SECTION 14. The cars shall at all times be entitled to the track, and any vehicles upon the track of said railway shall turn out when

any car moves up, so as to leave the track unobstructed, and the drivers of any vehicles refusing to do so, shall be liable to a fine not exceeding five dollars, on conviction before the recorder's court of said city of Detroit, and costs of prosecution shall not be at the expense of the city.

SECTION 15. The cars, after sunset, shall be provided with signal lights—blue in front, and green in rear of the cars.

SECTION 16. Wherever gas or water pipes and sewers are *not* laid in the streets herein specified, and through which railways are to pass, the said railway must be laid down and maintained subject to the rights now in the city and the gas company, and board of public works to take up and remove said pipes or sewers in such a manner as not unnecessarily to damage or injure said railways, or their use, without claim against said city, gas company, or the board of public works; and the common council expressly reserves to itself the right hereafter to lay down, or to permit to be laid down and repaired in said streets, gas or water pipes, and sewers, whenever the public or private convenience may require; the said gas or water companies, or private individuals, who shall
258 take up pavement for the purposes aforesaid, being always required, as by the present city ordinance, to restore the pavement in the street to its former condition.

SECTION 17. If said grantees or other assigns shall fail to complete any of the aforesaid railways within the time prescribed by this ordinance, or by resolutions of the common council, then the rights and privileges granted shall be forfeited as to any and every route herein established, which is not commenced and completed in the time herein prescribed, and the city shall be entitled to take possession thereof: Provided, that if said grantees shall be delayed by the order or injunction of any court: Provided, said injunction is not obtained by connivance of said grantees: And, further, provided, that if said grantees shall use due diligence to have said injunction removed, then the time of such delay shall be excluded from the time of completion prescribed in this ordinance.

SECTION 18. It is hereby reserved to the common council of the city of Detroit the right to make such further rules, orders or regulations, as may from time to time be deemed necessary to protect the interests, safety, welfare or accommodation of the public in relation to said railway.

SECTION 19. The powers and privileges conferred by the provisions of this ordinance shall be limited to thirty years, from and after the date of its passage.

259 SECTION 20. This ordinance shall be void and of no effect unless the grantees shall, within one month of the date of the passage thereof, notify the common council in writing of their acceptance of and agreement to the provisions of this ordinance, and shall, within six months after said last-named date, commence*d* the work of building and constructing said railway from Woodward avenue to the east line of the Woodbridge farm.

SECTION 21. It is distinctly provided, understood and agreed, that the rights, franchises or privileges, hereby conferred upon the

grantees, are subject to the rights now vested in the Detroit City railway.

SECTION 22. On and after the date upon which this ordinance shall take effect, whenever any of the streets or avenues through which the line of said railway is, or may be laid, shall be ordered to be paved, repaved or repaired, said company shall furnish all the material and bear the entire expense of excavating, grading and paving and repairing that portion of the streets and avenues which lies between the outer rails of their track, including the space between all double tracks and switches; and said company shall at all times keep the same clean, and in good order and condition; but said company shall have the right for the purpose of paving, repaving or repairing said spaces to use either cedar blocks or cobble stone, or some similar durable or proper material, to be approved by the common council. (As amended June 12, 1882.)

SECTION 23. The said grantees and their assigns shall pay
260 to the city treasurer of Detroit, annually, after five years from the passage of this ordinance, fifteen dollars on each and every passenger car, to be collected as a license for the use of the city, after the term of five years from and after this date.

SECTION 24. Whenever the said grantees, their successors or assigns shall have organized themselves into a body politic and corporate, under the said act of the legislature of the State of Michigan, all the powers and privileges granted and conferred to and upon them by this ordinance shall be given, granted, and duly vested in said corporation without any further action, consent, permission or authority of the common council whatever.

Myrtle Street Railway.

The following ordinance, applying to and governing the Grand River Street Railway Company, was approved by the common council June 27, 1885:

SECTION 1. Subject to all and every of the provisions, regulations and requirements of chapter fifty-two (52) of the Revised Ordinances of the City of Detroit for 1878, and of the amendments thereof, consent, authority and permission are hereby given to the Grand River Street Railway Company to lay, construct, use and operate a single street railway track, with suitable switches, turnouts, and turn-tables, on and through Myrtle street, in the city of Detroit, and the same to keep, maintain and operate thereon street railway cars, in the manner and subject to the conditions herein contained, and to all the requirements and conditions set forth in said ordinance and the amendments thereto, to wit: Commencing and join-
261 ing the Grand River Street Railway track at the intersection of Myrtle street and Grand River avenue, and running thence westerly on and through Myrtle street to Mt. Hope avenue.

SECTION 2. The said company shall run through cars on the route described, from the westerly terminus on Myrtle street to the intersection of Woodward and Jefferson avenues, and the rate of fare over such route shall be five cents.

SECTION 3. The said grantee shall complete said railway in and through said Myrtle street as aforesaid, and have the same in complete operation in connection with the track of said Grand River Street railway within one year from the approval of this ordinance, or within one year from the establishing the grade of said Myrtle street in accordance therewith.

SECTION 4. It is hereby reserved to the common council of the city of Detroit to make such further rules and regulations as may from time to time be deemed by the said common council necessary to protect the interest, safety and accommodation of the public in relation to said route.

SECTION 5. This ordinance shall take immediate effect if the said Grand River Street Railway Company shall, within thirty days after the approval of this ordinance, file with the city clerk its acceptance thereof, and a good and sufficient bond to the City of Detroit in the penal sum of five thousand dollars, to be approved by the common council, for the faithful performance of the terms of this ordinance by said company.

262 *Extension of Charter.*

The following ordinance, applying to and governing the Grand River Street Railway Company, was approved by the common council December 3, 1885:

SECTION 1. On the first day of January in each year, from the first day of January, 1886, the Grand River Street Railway Company shall pay to the treasurer of the city of Detroit a tax of one per cent., during the period of this ordinance, on the gross receipts collected for fares by said company for riding on said railway within the city limits, and the treasurer of said company, on or before the beginning of each year, as above mentioned, shall make and deliver to said city treasurer a sworn statement of said gross receipts; and said special tax shall be in lieu of license, and other taxes and charges, under existing ordinances: Provided, that this shall not in any manner affect the obligation of said company in the matter of paving or repairing pavements, as required by existing ordinances.

SECTION 2. The powers and privileges conferred and obligations imposed on the Grand River Street Railway Company by the ordinance passed May 1, 1868, and the amendments thereto, are hereby extended and limited to thirty years from and after the first day of January, A. D. 1886. And it is further agreed and stipulated that the running of cars, on any street, or any portion thereof, will be discontinued, temporarily, on such occasions as the board of aldermen may, by resolution, from time to time designate, to accommodate public processions or any other like public convenience.

263 SECTION 3. This ordinance shall take immediate effect when written acceptance of the terms thereof *are* filed in the office of the city clerk of the city of Detroit by the said Grand River Street Railway Company, and from that date, all ordinances, or parts of ordinances, in conflict with the provisions hereof shall stand repealed,

and all ordinances or parts of ordinances, not in conflict, are hereby affirmed and continued in force.

SECTION 4. The right to amend or repeal this ordinance, in case of its violation by said company, is expressly reserved.

Extension of Grand River Avenue Line to Westerly City Limits.

The following ordinance, applying to and governing the Grand River Street Railway Company, was approved by the common council August 3, 1888:

SECTION 1. Subject to all and every of the provisions, regulations and requirements of chapter fifty-two (52) of the Revised Ordinances of the City of Detroit for 1878, and of the amendment thereof, consent, permission and authority are hereby given to the Grand River Street Railway Company to lay, construct, use and operate with animal power, a single street railway track, with suitable switches, turnouts and turn-tables on and through the center of Grand River avenue, from the present terminus of its track on said avenue to the westerly limits under the supervision of the board of public works, and the same to keep, maintain and operate thereon street
264 railway cars, in the manner and subject to the conditions herein contained, and to all the requirements and conditions set forth in said ordinance and amendments thereto.

SECTION 2. The said grantee shall complete said extension of railway as soon as practicable after the approval of this ordinance, and before the said street shall be paved under the proceedings now before the common council to pave the same, and in advance of such pavement, and a failure to comply with the provisions shall operate as a forfeiture of all rights under this ordinance.

SECTION 3. It is hereby reserved to the common council of the city of Detroit to make such further rules and regulations as may from time to time be deemed by the said common council necessary to protect the interests, safety and accommodation of the public in relation to said route.

SECTION 4. This ordinance shall take effect when the Grand River Street Railway Company shall, within thirty days after the approval of this ordinance, file with the city clerk its acceptance thereof, and a good and sufficient bond to the City of Detroit in the penal sum of five thousand dollars ($5,000), to be approved by the common council, for the faithful performance of the terms of this ordinance by said company.

265 *Crawford Street and East Congress Street Lines—Double Track on Grand River Avenue.*

The following ordinance, applying to and governing the Grand River Street Railway Company, was approved by the common council January 3, 1889:

SECTION 1. Subject to all the provisions, regulations and requirements of chapter 100 of the Revised Ordinances of 1884, consent, permission and authority is hereby given to the Grand River Street

Railway Company to construct, operate and maintain a double-track street railway in, along and through Grand River avenue so called, in the city of Detroit, from its junction with Woodward avenue to the city limits, together with all suitable and necessary turnouts, turn-tables and cross-overs; also to construct, operate and maintain a single street railway track in, along and through Crawford street in the said city of Detroit, commencing at a point on the track of the said Grand River Street Railway Company, and running thence northerly along the center of said Crawford street to the Detroit and Bay City Railroad crossing, together with all suitable and necessary turnouts, turn-tables, curves and switches; also to construct, operate and maintain a single-track railway in, along, through Congress street east in said city of Detroit, commencing at a point on the track of the said Grand River Street Railway Company, and running thence easterly along said Congress street east to the easterly limits of the city of Detroit, or so far as said Congress street may be opened, and until said Congress street shall be opened to the city limits, or one year thereafter as hereinafter provided, the said Grand River Street Railway Company, the per-
266 mission of the Detroit City railway having been first obtained for such action—shall connect its track at the corner of Mt. Elliott and Congress streets east with that of the Detroit City railway and run its cars over said tracks of said Detroit City railway along Mt. Elliott and Jefferson avenues east of Mt. Elliott to the Boulevard, thence to a point at a convenient distance from the Belle Isle Park bridge to be fixed by the board of public works.

SECTION 2. Said double track on said Grand River avenue shall be laid so that the outer rails of said track shall be equidistant from a line drawn along the center of said street and in addition to the paving required to be done by the said Grand River Street Railway Company, under its present ordinance it shall lay and maintain the pavement between the double tracks hereby authorized.

SECTION 3. The lines hereby authorized to be constructed on Crawford street and Congress street east shall be operated in connection with the present Grand River Street Railway lines, and as a consideration for the permission hereby granted, the said company shall, when filing its acceptance of this ordinance as hereinafter required, file a stipulation or agreement in writing, by the terms of which it shall agree to carry passengers from the westerly terminal of its line on Myrtle street and Grand River avenue and the northerly terminus of its line on Crawford street, or any point on any of its said lines, to any point on its line on Congress street east or to the terminus thereof, for a single fare of five cents for one continuous trip, and from any point on its line on Congress street east
267 in a westerly direction to any point on any one of its said lines on Grand River, Myrtle or Crawford streets; also for a continuous trip from any point on the line of said railway, for a single fare of five cents for one continuous trip; and shall also within sixty days of the date of the acceptance of this ordinance issue and sell tickets *tickets* for twenty-five cents, said tickets to be good for transportation over the entire route of said company, or any

portion thereof traveled continuously, either way, when offered for fare by persons taking passage on the cars between the hours of 5.30 and 7 o'clock in the morning, and between the hours of 5.15 and 6.15 o'clock in the afternoon.

SECTION 4. The lines hereinbefore authorized shall be constructed and in operation within one year from the date of the passage of this ordinance: Provided, however, that the railway track along and upon Congress street east, between Mt. Elliott avenue and the city limits, shall be laid, constructed and in use within one year after that portion of Congress street east shall be opened for public use: Provided also, that the said Grand River Street Railway Company shall, within thirty days after the approval of this ordinance by the mayor, file its acceptance thereof in writing, and shall give within the same period of time a bond in the penal sum of $20,000 for the faithful performance by it of the terms and conditions of this ordinance.

SECTION 5. The rights conferred and obligations imposed under the terms of this ordinance shall remain in force during the period fixed by the ordinance to which this is supplementary.

268 SECTION 6. That said company is hereby authorized to run its cars at a rate of speed not exceeding ten miles per hour, and is hereby required to run them at an average rate of speed of not less than six miles per hour, and is also permitted to use, in operating its cars, electricity, or any other proper or suitable motive power used by any other street railway company, now or hereafter organized and operated in the city of Detroit.

Third Street Line.

The following ordinance, applying to and governing the Grand River Street Railway Company, was approved by the common council April 23, 1889:

SECTION 1. Subject to all the provisions of chapter 100 of the Revised Ordinances of 1884, and of all amendments and supplements thereto, and subject to the provisions of an ordinance entitled, "An ordinance supplementary to chapter 100 of the Revised Ordinances of 1884 of the City of Detroit, and all amendments and supplements thereto," approved January 3, 1889, consent, permission and authority is hereby given to the Grand River Street Railway Company to lay a single-track street railway, with all necessary and convenient turnouts, side tracks, and switches, in, along and through Third street, in the city of Detroit, from its intersection with Grand River street southerly along said Third street in the center thereof to a point on said Third street south of Woodbridge street and between said Woodbridge street and the bank of the Detroit river, and the same to keep, maintain and use, and to operate thereon street railway cars, subject and according to the provisions of the above-mentioned ordinances.

269 SECTION 2. Said track shall join with the tracks of the Grand River Street Railway Company on Grand River street, and shall be operated as a part of and in connection with the present

street railway lines of said company. Said line shall be constructed and in operation within one year from the date of the approval of this ordinance.

All Grand River Cars to Run to City Limits.

The following ordinance, applying to and governing the Detroit Citizens' Street Railway Company, as assignee of the Grand River Street Railway Company, was approved by the common council January 3, 1893:

SECTION 1. It is hereby ordained by the people of the city of Detroit: That the Detroit Citizens' Street Railway Company, as the assignee of the Grand River Street Railway Company, be and is hereby required to run all of its cars on Grand River avenue to the westerly boundary of the city.

SECTION 2. Each and every violation of, or failure to comply with the requirements of this ordinance shall be punished by a fine not to exceed three hundred dollars and costs. (As amended March 21, 1893.)

SECTION 3. This ordinance shall take effect at the expiration of five days from the date of the approval of this ordinance.

Curve at Grand River and Cass Avenues.

The following ordinance, applying to and governing the Cass Avenue and Grand River Avenue street car lines, was approved by the common council September 29, 1893:

270 SECTION 1. Consent, permission and authority *is* hereby granted to the owners of the Cass Avenue and Grand River Avenue street car lines to construct and operate a single-track curve connection from the Cass Avenue line with the northerly track of the Grand River Avenue street car tracks, extending through the northeasterly intersection of said streets.

SECTION 2. This ordinance shall not be held or treated as extending the rights or privileges of either of said street railway lines, and is granted subject to all of the provisions of the ordinances existing with reference to the construction and regulation of street railways in the city of Detroit, and shall not be held to prejudice the city of Detroit in any of its rights now being contested in the courts with reference to the life of the street railway franchise.

SECTION 3. The owners of said railway lines shall file an acceptance of the terms hereof with the city clerk within ten days from the date when this ordinance shall take effect. Otherwise, the same shall be void.

SECTION 4. This ordinance shall take immediate effect.

EXHIBIT "D."

Dix Avenue Railway.

The following ordinance, applying to and governing the Dix Avenue railway, was approved by the common council April 17, 1886:

271 SECTION 1. That consent, permission and authority *is* hereby given, granted and duly vested in George Dorr, Samuel A. Plumer, Calvin K. Brandon, Bethune Duffield, their associates, successors and assigns, organized into a corporation under the laws of the State of Michigan, to lay a single track for a railway, with all the necessary tracks for turnouts, side tracks and switches, in and along the course of the streets in the city of Detroit hereinafter mentioned, and the same to keep, maintain and use, and to operate thereon railway cars and carriages, during all the time hereafter specified and prescribed, and in the manner and upon the conditions set forth in this ordinance.

SECTION 2. The said grantees are by the provisions of this ordinance authorized to construct and operate a railway on and through the following streets, namely: Commencing at the intersection of Baker and Twenty-fourth streets, thence on and through Twenty-fourth street to the Dix road, and thence, with the exclusive right, on and through the Dix road to the city limits.

SECTION 3. Said railway through the said streets shall be constructed under the supervision of the board of public works, and the tracks shall be laid in the center of and conform to the grade of said streets. The *guage* of said track shall be four feet eight and one-half inches, and the rails shall be a flat rail, and shall be so laid as least to interfere with public travel. (As amended June 25, 1889.)

272 SECTION 4. The cars to be used on said railway shall be drawn by animals, and shall run at a rate of speed not to exceed ten miles an hour, and shall run as often as public convenience shall require and the common council shall prescribe: Provided, that the said company shall run regular cars at least once in thirty minutes during the sixteen hours of every day; and the cars in use upon the said railway shall be run for no other purpose than to transport passengers and their ordinary baggage: Provided, that other cars and carriages may be used for constructing and repairing said railway tracks and for clearing the same from snow and other obstructions. (As amended June 25, 1889.)

SECTION 6. The rate of fare for a single trip shall not exceed five cents for any distance within the city limits. The payment of such fare shall entitle the passenger to a continuous ride from any point upon said railway within the city limits, upon the cars of the Congress & Baker Street railway, to any point upon the line of said last-named railway, and payment of fare by a passenger riding west upon said Congress & Baker Street railway shall entitle such passenger to a continuous ride from any point upon that line upon the cars of the grantees' railway to any point upon its line within the city

limits: Provided, in case the Congress & Baker Street railway shall be extended easterly, the said fare above mentioned shall entitle the passengers traveling in either direction to a ride over the line of such extension.

SECTION 7. No car shall be allowed to stop upon a cross-walk or in front of any intersecting street, except to avoid collision or prevent danger to persons or property in the street. When the con-
273 ductor of any car is required to stop at the intersection of streets to receive or leave passengers, the car shall be stopped so as to leave the rear platform slightly over the crossing.

SECTION 8. The grantees or their assigns shall employ careful, sober and prudent persons to operate said railway and it shall be the duty of such persons to be vigilant and watchful to protect the public from danger.

SECTION 9. Conductors shall not allow ladies or children to enter or leave the car while in motion.

SECTION 10. Conductors shall announce to passengers the names of the crosss-treets as the cars reach them.

SECTION 11. The cars shall at all times be entitled to the track, and any vehicles upon the track of said railway shall turn out, when any car comes up, so as to leave the track unobstructed, and the driver of any vehicle refusing to do so, shall be liable to a fine not exceeding fifty dollars on conviction before the recorder's court of the city of Detroit.

SECTION 12. Said grantees shall provide and keep in repair such substantial and permanent approaches to its tracks at all points on the line of its road so that teams, vehicles and persons shall be enabled to cross the track conveniently at all times.

SECTION 13. The cars, after sunset, shall be provided with proper signal lights.

274 SECTION 14. The said railway shall be laid down subject to the right of the city or any municipal board, to lay down, take up, change or remove any work of any kind on or beneath the surface of the streets, without any claim for damages on the part of said railway.

SECTION 15. The power and privileges conferred by the provisions of this ordinance shall be limited to twenty years from and after its passage.

SECTION 16. Whenever the grantees, their successors and assigns, shall have organized themselves into a body politic and corporate under the said act of the legislature of the State of Michigan, all the powers and privileges granted and conferred to and upon them by this ordinance shall be given, granted and duly vested in said corporation without any further action, consent, permission or authority of the common council.

SECTION 17. Cars going in the same direction shall not approach each other within a distance of one hundred feet, except in cases of accident or at stations, or for the purpose of connecting two cars together.

SECTION 18. On the first day of July and January in each year after the completion of said railway, said railway company shall pay

to the treasurer of the city of Detroit a tax of one per cent. during the period of this ordinance, on the gross receipts collected for fares by said company for riding on said railways within the city limits, and the treasurer of said company on or before the beginning of each half year as above mentioned, shall make and deliver to said city treasurer a sworn statement of said gross receipts.

SECTION 19. On and after the date from which this ordinance shall take effect, whenever any of the streets through which the line of said railway is or may be laid, shall be hereafter ordered to be paved, repaved or repaired, said company shall furnish all the materials and bear the entire expense of excavating, grading, paving, repaving and repairing that portion of the street which lies between the outer rail of their tracks, and said company shall at all times keep the same clean and in good condition; but said company shall have the right for the purposes of paving, repaving or repairing said space to use either cedar blocks or cobblestones or some other similar durable and proper material, such material to be subject to the approval of the board of public works.

The foregoing special tax and undertaking as to paving shall be in lieu of license, but shall not alter the obligations of said company to pay general taxes on all its property.

SECTION 20. This ordinance shall be void and of no effect unless the grantees, their associates, successors and assigns, shall, within one month from the date of the approval thereof, notify the common council, in writing, of its acceptance and shall file a good and sufficient bond in the sum of five thousand dollars to be approved by the city controller, conditioned that the said railway shall be completed in the time specified herein and for the faithful performance of the terms of this ordinance; and shall within one year from said date have said railway completed and in operation, running sufficient cars to accommodate the public.

SECTION 21. The right is hereby reserved to the common council of the city of Detroit to make such further rules, orders or regulations as from time to time — be deemed necessary by the common council to protect the interest, safety, welfare or accommodation of the public in relation to said railway.

SECTION 22. Any wilful violation of or failure to comply with any of the provisions of this ordinance shall be punished by a fine not to exceed one hundred dollars and costs; and — the imposition of such fine and costs the court may make a further sentence, that the offender be imprisoned in the Detroit house of correction or the county jail until such fine and costs are paid: Provided, however, that the term of imprisonment shall not exceed the period of six months.

SECTION 23. The right to amend or repeal this ordinance, in case of its violation by said company, is expressly reserved.

Service of Twenty-fourth Street and Dix Avenue.

The following ordinance, applying to and governing the Detroit City railway, was approved by the common council November 27, 1894:

Whereas, the Revised Ordinance- of the City of Detroit provide that the right to make such rules, orders and regulations as may from time to time be deemed necessary to protect the inter-
277 est, welfare and accommodation of the public in relation to the Detroit City railway, its successors and assigns is reserved to the common council of the city of Detroit; and

Whereas, the interest, welfare and accommodation of the public in the opinion of the common council of the city of Detroit requires that better street railway facilities shall be furnished residents of the western portion of the city, along and adjacent to Dix avenue by the more frequent operation of street cars on the street railway on said avenue and Twenty-fourth street:

It is hereby ordained by the people of the city of Detroit—

SECTION 1. That from and after November 25th, A. D. 1893, it shall be the duty of the Detroit City railway, its successors and assigns, to run and operate street cars in each direction upon the street railway on Twenty-fourth street and upon Dix avenue from Twenty-fourth street to the westerly city limits in such a manner that the intervals between cars going in the same direction shall not exceed eight minutes between the hours of 6 o'clock a. m. and 10.30 p. m. each day.

SECTION 2. For each and every day in which the said Detroit City railway, its successors and assigns, shall neglect to run and operate cars as herein provided, the said company may be complained of as for a distinct offense and punished as hereinafter provided.

SECTION 3. Any violation and failure to comply with the provisions or requirements of this ordinance shall be punished by
278 a fine not to exceed two hundred dollars and costs, and such fine, when so imposed, may be recovered from the person or corporation so convicted in an action at law in the proper court.

SECTION 4. This ordinance shall take immediate effect.

Highland Park Railway.

EXHIBIT "E."

The following ordinance, applying to and governing the Highland Park Railway Company, was approved by the common council July 13, 1886:

SECTION 1. That consent, permission and authority are hereby given, granted and duly vested in the Highland Park Railway Company, its successors and assigns, a corporation organized under the laws of the State of Michigan, to construct, maintain and operate a single or double track street railway, with all the necessary and convenient tracks for turnouts, side tracks and switches, in and

along Woodward avenue, commencing at the northerly side of the railroad crossing and running thence northerly to the city limits, and to keep, maintain, use and operate thereon street railway cars and carriages during all the time hereinafter specified and prescribed, and in the manner and upon the conditions set forth in this ordinance: Provided that until the double track is laid the switches shall be laid on such side as will be occupied by said double track when the same shall be constructed.

SECTION 2. The track of said railway shall be constructed
279 under the supervision of the board of public works; and of rails similar to the rails now used by the City Railway Company on Woodward avenue, and such as shall the least obstruct the free passage of vehicles or carriages over, across or along the same, and the upper surface of the rails shall be laid flush with the surface of the street, and shall conform to the grade thereof as now established, or as it shall from time to time be re-established or altered by the city authorities.

SECTION 3. The railway through said street shall be laid so that the center of the track shall be the center of the street if on a single track, and if on a double track the inside rail of each track shall be laid within two feet and four inches of the center of the street, so as to enable two cars to pass on opposite tracks, and leave a space between said cars of at least eighteen inches, and the gauge of said tracks, shall be at least four feet eight and one-half inches, and so as to accommodate the most common width of carriage wheels; provided, that where a single track is laid in the first instance, it may be laid so as to form one of a double track authorized under this section.

SECTION 4. The cars to be used on said railway shall be drawn by animals, or operated by electric motors, and shall run at a rate of speed not to exceed ten miles per hour, and shall run as often as public convenience shall require and the common council shall prescribe: Provided, that said company shall run regular cars at least once in thirty minutes during sixteen hours in every day;
280 and the cars in use upon said railway shall be run for no other purpose than to transport passengers and their ordinary baggage: Provided, that if the operation of said railway by electricity shall be or become impracticable or dangerous to human life, the common council may revoke the privileges of thus operating said railway, and compel said railway to use animal power instead.

SECTION 5. The rate of fare for a single trip shall not exceed five cents for any distance within the city limits. The payment of such fare shall entitle the passenger to a continuous ride from any point upon said railway within the city limits, upon the cars of the Woodward Avenue street railway, to any point upon the line of said last-named railway; and payment of fare by a passenger riding north upon said Woodward Avenue street railway shall entitle such passenger to a continuous ride from any point upon that line upon the cars of the grantees' railway to any point upon its line within the city limits.

SECTION 6. No car shall be allowed to stop upon a cross-walk or in

front of any intersecting streets, except to avoid collision or prevent danger to persons or property in the street. When the conductor of any car is required to stop, at the intersection of streets to receive or leave passengers, the car shall be stopped so as to leave the rear platform slightly over the crossing.

SECTION 7. The grantees or their assigns, shall employ careful, sober and prudent persons to operate said railway, and it shall be the duty of such employees to be vigilant and watchful to protect the public from danger.

281 SECTION 8. Conductors shall not allow ladies or children to enter or leave the car while in motion.

SECTION 9. Conductors shall announce to the passengers the names of cross-streets as the cars reach them.

SECTION 10. The cars shall at all times be entitled to the track, and any vehicle upon the track of said railway shall turn out when any car comes up, so as to leave the track unobstructed, and the driver of any vehicle refusing to do so shall be liable to a fine not exceeding fifty dollars, on conviction before the recorder's court of the city of Detroit.

SECTION 11. Said grantees shall provide and keep in repair such substantial and permanent approaches to its tracks at all points on the line of its road, so that teams, vehicles and persons shall be enabled to cross the track conveniently at all times.

SECTION 12. The cars, after sunset, shall be provided with signal lights.

SECTION 13. The said railway shall be laid down subject to the right of the city, or any municipal board, to lay down, take up, change or remove any kind of work on or beneath the surface of the streets, without any claim for damages on the part of said railway.

SECTION 14. The powers and privileges conferred by the provisions of this ordinance shall be limited to twenty years from and after the date of its passage.

282 SECTION 15. Cars going in the same direction shall not approach each other within a distance of one hundred feet, except in cases of accident, or at stations, or for the purpose of connecting two cars together.

SECTION 16. On the first of July and January in each year, after the completion of said railway, said railway company shall pay to the treasurer of the city of Detroit a tax of one per cent. during the period of this ordinance, on the gross receipts collected for fares by said company for riding on said railway within the city limits, and the treasurer of said company on or before the beginning of each half year as above mentioned, shall make and deliver to said city treasurer a sworn statement of said gross receipts.

SECTION 17. On and after the date from which this ordinance shall take effect, whenever any of the streets through which the line of said railway is or may be laid shall be hereafter ordered to be paved, repaved or repaired, said company shall furnish all the materials and bear the entire expense of excavating, grading, paving, repaving and repairing that portion of the street which lies

between the outer rails of their tracks, and said company shall at all times keep the same clear and in good order and condition, but said company shall have the right for the purpose of paving, repaving or repairing said space, to use either cedar blocks or cobblestones, or some other similar, durable and proper material to be subject to the approval of the board of public works. The foregoing special tax and undertaking as to paving shall be in lieu of license, but shall not alter the obligations of said company
283 to pay general taxes on all its property.

SECTION 18. This ordinance shall be void and of no effect unless the grantees, their successors and assigns, shall, within one month from the date of the approval thereof, notify the common council of its acceptance, in writing, and shall file a good and sufficient bond in the sum of five thousand dollars, to be approved by the city controller, conditioned that the said railway shall be completed within the time specified herein, and for the faithful performance of the terms of this ordinance; and shall within one year from said date have said railway completed and in operation, running sufficient cars to accommodate the public.

SECTION 19. The right is hereby reserved to the common council of the city of Detroit to make such further rules, orders or regulations as from time to time may be deemed necessary to protect the interests, safety, welfare or accommodation of the public in relation to said railway.

SECTION 20. Any wilful violation — or failure to comply with any of the provisions of this ordinance shall be punished by a fine not to exceed five hundred dollars and costs; and in the imposition of such fine and costs the court may make a further sentence, that the offender be imprisoned in the Detroit house of correction or county jail until such fine and costs are paid: Provided, however, that the term of imprisonment shall not exceed the period of six months.

SECTION 21. The right to amend or repeal this ordinance, in case of its violation by said company, is expressly reserved.

284 *Railroad Crossing.*

The following ordinance, applying to and governing the Highland Park Railway Company, was approved by the common council September 12, 1893:

SECTION 1. Subject to all the provisions and requirements of an ordinance entitled "An ordinance to authorize the Highland Park Railway Company, its successors and assigns, a body corporate, organized under the laws of the State of Michigan, to construct, maintain and operate a railway on Woodward avenue, between the railroad crossing and the northern city limits," approved July 13, 1886, being chapter 132 of the Revised Ordinances of the City of Detroit for the Year 1890, and subject to all the provisions and requirements of all ordinances of said city of Detroit with reference to street railways, the Highland Park Railway Company is hereby granted permission and authority to construct, maintain and operate its single-track or double-track railway in and along Woodward

avenue, from the present southerly terminus of said railway at the northerly side of the railroad crossing, southerly over and across the right of way of the Michigan Central Railroad Company, the Grand Trunk railway, the Lake Shore & Michigan Southern railway, the Belt Line railroad, so as to connect with the railway tracks in said Woodward avenue on the southerly side of said railway premises.

SECTION 2. The said extension of railway tracks shall be constructed under the supervision of the board of public works and in such manner as shall be approved by them, and when so constructed, shall be and become a part of the railway of said Highland Park
285 Railway Company, and subject to all the terms and provisions of the ordinances relating thereto: Provided, that in case of the grade of the railway tracks and said Woodward avenue shall be separated, then the said Highland Park Railway Company shall immediately cause the tracks hereby authorized to conform to said newly established grade, and waives all damages caused by said change of grade.

SECTION 3. This ordinance shall be of no effect unless the said grantee shall, within ten days, file a written acceptance of its terms and conditions.

SECTION 4. This ordinance shall take immediate effect.

EXHIBIT F.

Fort Wayne and Elmwood Railway Company.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council January 31, 1865:

Whereas, Frederick Buhl, John P. Clark, Eber Ward, their associates, successors and assigns, propose to organize a body politic and corporate, under the "Act to provide for the construction of train railways," approved February 13, 1855 (Laws of 1855, p. 338), and act or acts amendatory thereto, for the purpose of constructing and operating through the streets of the city of Detroit a street railway, to be known as the "Fort Street & Elmwood Avenue railway;" therefore,

286 It is hereby ordained by the common council of the city of Detroit:

SECTION 1. That consent, permission and authority *is* hereby given, granted and duly vested in Frederick Buhl and his associates, who may be approved by the common council, their successors and assigns, organized into a corporation under the laws of the State of Michigan, as aforesaid, to lay a single or a double track for a railway, with all the necessary and convenient tracks for turnouts, side tracks and switches, in and along the course of the streets of, and bridges in, the city of Detroit, hereinafter mentioned, and the same to keep, maintain and use, and to operate thereon railway and carriages, during all the term hereinafter specified and prescribed, and in the manner and upon the conditions set forth in this ordinance.

SECTION 2. The said grantees are, by the provisions of this ordinance, authorized to construct and operate a street railway, as herein provided, upon the following route: Commencing at the present westerly limits of the city of Detroit, where Fort street touches and intersects said westerly limits; thence easterly through Fort street to Woodward avenue; and along the southerly side of Michigan avenue to Randolph street; thence up Randolph street; and from said Randolph street to Elmwood avenue; through Croghan street the whole distance to said Elmwood avenue: Provided, said street can be opened without expense to the city; otherwise through Croghan street to St. Aubin street; and thence through St. Aubin street to Clinton avenue; and thence through Clinton avenue to Elm-
287 wood avenue; and thence through the said Elmwood avenue to the gate of Elmwood cemetery. If the city of Detroit pave Croghan street contemporaneously with the laying of tracks on said street, said railway company shall pave their track on said street, and two feet four inches on either side thereof, at their own expense. (As amended March 3, 1865.)

SECTION 3. The railway through said street shall be laid in the center thereof, if on a single track; and if on a double track, the inside rail of each track shall be laid a sufficient distance from the center of the street to enable two cars to pass on opposite tracks, and leave a space of at least eighteen inches, and the *guage* of the track shall be at least four feet eight and one-half inches, and so as to accommodate the most common width of *a* carriage wheels: Provided, however, that where a double track shall not be laid in the first instance, and a second track shall afterwards be required, such second track may be laid upon either side of the first; and, provided, further, that in all streets which are not paved, or where plank roads are laid, the track of said railway may be laid elsewhere that in the center thereof as may be most convenient under the direction of the common council, and shall least obstruct the public travel thereon. When the grantees shall complete one track of the said railway, and place cars thereon for public use, they may, at any time thereafter, within five years, build a second track so that they do not interrupt the running of their own cars on the first complete track: Provided, the consent of the common council is first obtained.

288 SECTION 4. The track of said railway shall be laid of such rails as are now laid in Woodward avenue, and as shall least obstruct the free passage of vehicles or carriages over the same; and the upper surface of the rails shall be laid flush with the surface of the street, and shall conform to the grade thereof as now established or as they shall from time to time, be established or altered; and in case of grading, paving or otherwise, if it be necessary to relay said rails, the same shall be done at the expense of the grantees; and in all streets or parts of streets, which are not paved, the rails shall be laid in such a manner as shall least interfere with public travel thereon, and as shall be authorized and approved by the city engineer. The grantees and their assigns shall be required to keep the surface of the streets inside the rails, and for two feet four

inches outside thereof in good order and repair, and all snow, ice and dirt and filth cleaned and removed from the same, in such a manner as will not obstruct the passage of said streets, at the expense of the grantees: Provided, however, that upon the paved portion of said streets, the materials for repaving shall be supplied at the expense of the city.

SECTION 5. The route of said railway shall commence at that point on Fort street where said street intersects the westerly limits of the city of Detroit; from thence running to Elmwood avenue, on the course set forth in section two of this ordinance; and in collecting fare the whole of said distance shall be deemed but one route; and each passenger traveling the same continuously over the whole or any portion thereof, shall pay only one fare, the amount of which fare shall be five cents.

289 SECTION 6. Said railway shall be completed from the westerly limits of the city to Woodward avenue, on or before the first day of August, A. D. 1865, and the remainder thereof, from Woodward avenue to Elmwood avenue, on or before the twentieth day of August, A. D. 1866: Provided, however, that the said railway shall be completed from Woodward avenue to St. Aubin avenue, upon the route designated in said ordinance, on or before the first day of July, A. D. 1866. (As amended June 16, 1866, and August 13, 1866.)

SECTION 7. The cars to be used on said railways shall be drawn by animals only, at a speed not exceeding six miles per hour, and shall be run as often as public convenience shall require, and the common council shall prescribe: Provided, always, that said common council shall not require them to run regular cars oftener than once in fifteen minutes during sixteen hours every day from the fifteenth day of April to the fifteenth day of October, and fourteen hours every day from the fifteenth day of October to the fifteenth day of April; and the cars in use upon said railway shall be run for no other purpose than to transport passengers and their ordinary baggage; and the cars and carriages for that purpose shall be of the best style in use on said railways: Provided, that other cars and carriages may be used for constructing and repairing said railway tracks, and for cleaning the same from obstructions by snow or otherwise.

SECTION 8. The rate of fare for any distance shall not exceed five cents in any car, on said route, except when cars or carriages shall be chartered for the specific purposes: Provided, cars so char-
290 tered shall be so designated by placards, and shall not be considered regular cars within the meaning of the preceding section.

SECTION 9. Cars drawn in the same direction shall not approach within a distance of one hundred feet, except in cases of accident, or at a station, or for the purposes of connecting two cars together.

SECTION 10. No cars shall be allowed to stop on a crosswalk, or in front of any intersecting street, except to avoid collision or prevent danger to persons or property in the street.

SECTION 11. When the conductor of any car is required to stop at

the intersection of a street, to receive or leave passengers, the cars shall be stopped so as to leave the rear platform slightly over the crossing.

SECTION 12. The grantees or their assigns, shall employ careful, sober and prudent agents, conductors and drivers, to take charge of their cars while on the road; and it shall be the duty of all such agents, conductors and drivers, to keep vigilant watch for all trains, carriages or persons on foot, and especially children, either upon the track or moving towards it. At the first appearance of danger to such teams, carriages, footmen or children, or other obstructions, the cars shall be stopped in the shortest space and time possible; and the driver shall be provided with a whistle for the purpose of sounding the alarm in cases of danger.

291 SECTION 13. Conductors shall not allow ladies or children to enter or leave the cars while in motion.

SECTION 14. Conductors shall announce to passengers the names of the principal squares and streets as the cars reach them.

SECTION 15. The cars shall at all times be entitled to the track, and any vehicles upon the track shall turn out when any car comes up, so as to leave the tracks unobstructed; and the driver of any vehicle refusing to do so shall be liable to fine not exceeding ten dollars, on conviction before the recorder's court of the city of Detroit; but costs and prosecution shall not be at the expense of the city: Provided, however, that the steam fire-engines shall always have the right of the track on unpaved streets, when going to a fire.

SECTION 16. The cars after sunset shall be provided with colored signal lights—a red light in front, and a green light in rear

SECTION 17. Wherever gas or water pipes or sewers are now laid in the streets herein specified, and through which said railway is to pass, the said railway must be laid down and maintained, subject to the right now in the city, and the gas company and the board of public works to take up and remove said pipes and sewers in such a manner as not unnecessarily to damage or injure said railway or its use, without claim against said city, gas company or board of public works; and the common council expressly reserves to itself the right hereinafter to lay down or permit

292 to be laid down, and repaired in said streets, whenever the common council shall so direct by resolution; the said gas or water companies, or private individuals, who shall take up pavement for the purpose aforesaid, being always required as by the present city ordinance, to restore the pavement in the streets to its former condition.

SECTION 18. If said grantees or their assigns, shall fail to complete said railway, or any part thereof, within the time prescribed by this ordinance, then the rights and privileges herein granted shall be forfeited as to the whole of said route herein established, and the city shall be entitled to take possession thereof, provided the council does not extend the time: Provided, that if said grantees shall be delayed by the order or injunction of any court, and said order and injunction shall not have been obtained at the instance or by the

connivance of said grantees, then the time of such delay shall be excluded from the time of completion prescribed in this ordinance.

SECTION 19. It is hereby reserved to the common council of the city of Detroit the right to make such further rules, orders or regulations as may from time to time be deemed necessary to protect the interest, safety, welfare or accommodation of the public in relation to said railways,.

SECTION 20. The powers and privileges conferred by the provisions of this ordinance shall be limited to thirty years, from and after the date of its passage.

SECTION 21. Said grantees shall, on or before the first day
293 of March, A. D. 1865, deposit with the controller of said city the sum of five thousand dollars in money or in United States stocks, or in Treasury notes bearing seven and three-tenths per cent. interest, which deposit shall be security for the completion by said grantees of said line of railway, which they are required to construct and complete on or before the time herein mentioned for the completion of the same, and if the said railway shall not then be completed the sum so deposited shall be forfeited to the city.

SECTION 22. The said grantees and their assigns shall pay to the treasurer of the city of Detroit, annually, twenty-five dollars on each and every passenger and other car, excepting only those cars used for constructing, repairing and cleaning the track of said road, to be collected as a license for the use of the city, after the term of five years from and after this date.

SECTION 23. Whenever said grantees, their successors or assigns, shall have organized themselves into a body politic and corporate, under the said act of the legislature of the State of Michigan, and the amendment or amendments thereto, all the powers and privileges granted and conferred to and upon them by this ordinance, shall be given, granted and duly vested in said corporation without any further action, consent, permission or authority of the common council whatever.

SECTION 24. No railway shall hereafter be built on and along the street occupied by the railway herein provided for, for a greater distance than three blocks, at any place, without the consent of the grantees and their successors.

294 SECTION 25. The rails of said street railway shall be laid on a foundation equal to that of Woodward avenue, or any other first-class railroad.

Supplementary Ordinance.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Street Railway Company, was approved by the common council on June 30, 1880:

SECTION 1. On the first day of July and January in each year from the first day of July, 1880, the Fort Wayne & Elmwood Street Railway Company shall pay to the treasurer of the city of Detroit a tax of one per cent., during the period of this ordinance, on the gross receipts collected for fares by said company, for riding on

said railway within the city limits, and the treasurer of said —, on or before the beginning of each half year as above mentioned, shall make and deliver to said city treasurer a sworn statement of said gross receipts.

SECTION 2. On and after the date upon which this ordinance shall take effect, whenever any of the streets through which the line of said railway is or may be laid, shall be hereafter ordered to be paved, repaved or repaired, said company shall furnish all material and bear the entire expense of excavating, grading, paving, repaving or repairing that portion of the street which lies between the outer rails of their tracks, including the space between all double tracks and switches and said company shall at all times keep the same clear and in good order and condition; but said company shall have the right for the purpose of paving, repaving or repairing said space to use either cedar blocks or cobblestone or some other similar, durable and proper material, such latter material to be subject to the approval of the common council, and all cobblestones or other material now constituting the roadway between the said tracks of the company shall belong to said company, while used for the purposes of paving, repaving and repairing in the place or places where such cobblestones or other material are now or hereafter may be for the first time laid or placed.

The foregoing special tax and undertaking as to paving shall be in lieu of license and other taxes and charges under existing ordinances.

SECTION 3. The powers and privileges conferred and obligations imposed on the Fort Wayne & Elmwood Railway Company by the ordinance passed January 31, 1865, and the amendments thereto, are hereby extended and limited to thirty years from this date. And it is further agreed and stipulated that the running of cars on any street, or any portion thereof will be discontinued temporarily on such occasions as the common council may by resolution, from time to time designate, to accommodate public processions or any other like public convenience.

SECTION 4. This ordinance shall take immediate effect, when written acceptance of the terms thereof *are* filed in the office of the city clerk of Detroit by the said Fort Wayne & Elmwood Company; and from that date all ordinances or parts of ordinances in conflict with the provisions hereof shall stand repealed, and all ordinances or parts of ordinances not in conflict herewith are hereby affirmed and continue- in force.

SECTION 5. The right to amend or repeal this ordinance, in case of its violation by this company, is expressly reserved.

Extension of Double Track on Fort Street from Fifth Street to Griswold Street.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council June 27, 1885:

SECTION 1. Subject to all and every one of the existing provisions,

regulations and requirements of chapter ninety-nine (99) of the Revised Ordinances of the City of Detroit for the Year 1884, and of the supplementary ordinance in said chapter contained, consent, permission and authority are hereby given and granted to the Fort Wayne & Elmwood Company to lay, extend, construct, use and operate a second or double street railway track on and through Fort street in the city of Detroit from the present terminus of its double tracks near the intersection of Fort and Fifth streets to Griswold street, in the city of Detroit, and the same to keep, maintain and operate thereon street railway cars under, in the manner and subject to the provisions and requirements set forth in chapter ninety-nine (99) of the Revised Ordinance- of the City of Detroit for the Year 1884, and the supplementary ordinance therein contained and by this ordinance imposed.

297 SECTION 2. The second or double track by this ordinance authorized and permitted shall be so laid, constructed and extended on and through said Fort street between the present terminus of the double track of said Fort Wayne & Elmwood Railway Company, near the intersection of Fort and Fifth streets to the intersection of Fort and Griswold streets on each side of the center of said Fort street, that the inside rail of each of said tracks shall be at such a distance from the center of said Fort street as shall enable two cars to pass on the parallel tracks and leave a space of at least eighteen inches between such cars when passing.

SECTION 3. The said Fort Wayne & Elmwood Street Railway Company shall complete the work of laying, construction and extending the tracks authorized by this ordinance, and shall have said tracks and its railway between said Fifth and Griswold streets in full operation thereon, on or before the first day of January, 1886, or within six months from the date of the passage of this ordinance.

Extension to Westerly City Limits.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council on July 24, 1886:

SECTION 1. Subject to the existing provisions, regulations and requirements of chapter ninety-nine (99) of the Revised Ordinances of the City of Detroit for the Year 1884, and of the supplementary ordinance in said chapter contained, save and except as the same are by this ordinance changed or modified expressly or by implication, consent, permission and authority is hereby given and

298 granted to the Fort Wayne & Elmwood Railway Company to lay, construct, extend, use and operate a street railway track with all necessary convenient switches, side tracks and turnouts in, on and along the center of Fort street, from the intersection of Fort street and Clark avenue, in the city of Detroit, to the intersection of Fort street and the westerly city limits of the city of Detroit, and the same to keep, maintain and operate thereon street railway cars for the term of twenty-four years from the date of the passage of this ordinance.

SECTION 2. The rate of fare for any distance on said Fort Wayne & Elmwood railway, including the extension authorized by this ordinance, shall not exceed five cents in any one car, except where cars or carriages shall be chartered for specific purposes: Provided, cars so chartered shall be so designated by placards, and shall not be considered regular cars within the meaning of section 7 of chapter 99 of the Revised Ordinance- of 1884 of the City of Detroit.

SECTION 3. The said Fort Wayne & Elmwood Railway Company, its successors and assigns, shall run cars for the transportation of passengers and their ordinary baggage between said Clark avenue and the westerly limits of the city of Detroit every half hour for thirteen hours of each day from the first day of May to the first day of November, and every hour for thirteen hours each day from the first day of November to the first day of May of each and every year: Provided, that the said company may be required to run its cars over the extension hereby authorized as often as every fifteen minutes if required by public convenience and the ordinance of the common council.

299 SECTION 4. The said Fort Wayne & Elmwood Railway Company, its successors and assigns, shall build, construct and complete the street railway track, and the switches, side tracks and turnouts hereby authorized, and shall have the same in readiness for operation ninety days after the acceptance of this ordinance by said Fort Wayne & Elmwood Railway Company has been filed in the office of the city clerk of the city of Detroit: Provided, that such additional switches and side tracks may be hereafter constructed along the extension of said railway hereby authorized as may be necessary or convenient.

SECTION 5. This ordinance shall take immediate effect when written acceptance of the terms hereof shall be filed in the office of the city clerk of the city of Detroit by said Fort Wayne & Elmwood Railway Company, and from that date all ordinances and parts of ordinances in conflict with the provisions hereof shall stand repealed, and all ordinances or parts of ordinances not in conflict herewith are hereby affirmed and continued in force.

Extension of Line and Single Track on Elmwood Avenue and East Lafayette Street to Boulevard.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council December 22, 1886:

SECTION 1. That subject to each and all of the existing provisions, regulations and requirements of chapter ninety-nine (99) of the Revised Ordinance- of the City of Detroit for the Year 1884, and of the supplementary ordinance in said chapter contained, and of

300 an ordinance to authorize said company to construct, maintain and operate a double street railway track on certain portions of Fort street, approved June 27, 1885, and of this ordinance, consent, permission and authority are hereby given and granted to the Fort Wayne & Elmwood Railway Company to lay, construct,

maintain and use — street railway track, and thereon to maintain and operate street railway cars upon and along the following avenue and street in the city of Detroit, namely: Commencing at and connecting with the present easterly terminus of the street railway track of said company at the junction of Croghan street and Elmwood avenue, running thence upon and along Elmwood avenue to the intersection of that avenue and Lafayette street, thence along Lafayette street to a point thereon not less than thirty feet nor more than one hundred feet west of the limits of the Boulevard on Frontenac avenue.

SECTION 2. That, in addition to the provisions, regulations and requirements mentioned in the preceding section, the consent, permission and authority hereby given and granted are so given and granted, subject to the following conditions and limitations, with which the said company must and shall comply, namely:

1. The street railway track hereby authorized to be laid, constructed and maintained shall be made a single track with suitable and convenient turnouts, side tracks and switches, and shall be laid and maintained in the center of the street.

301 2. The said company shall complete the work of laying and constructing the street railway tracks hereby authorized, and shall have the same in operation and use within one year after the passage of this ordinance.

3. The street railway track heretofore laid and constructed by said company, under the provisions of the several ordinances mentioned in section 1, and street railway tracks authorized to be laid and constructed by this ordinance when completed shall be deemed one railway, and the route of such railway shall commence at the western terminus thereof at or within the city limits from thence running along the line of said railway, as heretofore, hereby or hereunder established, to the Boulevard on Frontenac avenue; and in collecting fares the whole of said distance shall be considered one route, and each passenger travelling the same continuously, either way, over the whole or any portion thereof, shall pay only one fare, the amount of which shall be five cents.

SECTION 3. This ordinance shall take effect when the said company shall have filed with the city clerk its written acceptance of the same, and shall execute and deliver to the controller of the city of Detroit a good and sufficient bond to said city in the penal sum of ten thousand dollars, to be approved by the common council, and conditioned for the faithful performance of the conditions and terms of this ordinance.

302 *Relative to Taxation and to Adjust Past Taxes.*

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council, over the veto of the mayor, January 4, 1887:

SECTION 1. From the first day of July, 1882, to the thirty-first day of December, 1896, said railway shall pay to the city treasurer one and one-half per cent. of its gross receipts. From the first day of

January, 1897, to the end of its franchise, under the ordinance approved June 30, 1880, said railway shall pay to the city treasurer two per cent. of its gross receipts. At the expiration of each half year during the entire period above mentioned, the treasurer of said railway shall submit to the city treasurer his sworn statement of such gross receipts, and shall therewith pay to the city treasurer the percentage so found to be due.

SECTION 2. From the first day of July, 1882, to the end of its franchise so approved June 30, 1880, said railway shall also pay to the City of Detroit such taxes for municipal purposes as have been up to this date and shall be thereafter levied and assessed upon the lots and parcels of land and buildings thereon which are the property of said railway. Such tax shall be levied and assessed in the same manner and shall be payable at the same time as other city taxes, on lands.

SECTION 3. In adjusting the amount due under the foregoing sections from the first day of July, 1882, to the thirty-first
303 day of December, 1886, the railway shall be credited with all sums heretofore paid by them on account of taxes or percentage on gross receipts, no interest shall be charged to either party. The railway shall pay to the city treasurer such amount as shall be found to be due forthwith upon its ascertainment: thereupon all suits and proceedings between the city and the railway shall be discontinued without costs to either party, and all unsettled claims in reference to such taxes shall be discharged by both parties.

SECTION 4. The above-mentioned percentage payments and the tax on lands provided for to accrue from January 1, 1887, to the end of the franchise of said railway, are to be paid by said railway and received by the city in lieu of and in discharge of all taxes, license fees and charges of any kind against the property, capital stock, rights and franchises of said company, which have been, or may be, levied assessed or imposed upon any present or future law of authority.

If hereafter said railway shall be either directly or indirectly charged with or required to pay any other or further tax, license fees or charges, then the amount so paid shall be credited by the city to said railway upon the amount of the percentage payments to become due under this ordinance; and the obligations to make such percentage payments shall be satisfied and discharged to that extent; and, in no event shall said railway be liable to pay under any form of tax, license or charge, any sums in excess of said percentage, and the tax on the lands of said railway as above provided:

304 Provided, however, that nothing herein contained shall be construed as a contract on the part of the Fort Wayne & Elmwood Railway Company to the levying or collecting of any other or further tax, license or charge than the tax on the gross receipts hereinbefore provided for and the tax on its lands as hereinbefore specified; nor shall any such other or further tax, license or charge be valid or binding without the consent in writing of said Fort Wayne & Elmwood Railway Company.

SECTION 5. Subject to the provisions of this ordinance which are only intended to change the ordinance of June 30, 1880, as to the percentage on gross receipts and to modify existing ordinances in reference to the charges by taxation and percentages on gross receipts, all ordinances and parts of ordinances not inconsistent herewith are hereby affirmed and continue- in force.

SECTION 6. This ordinance shall take effect when the Fort Wayne & Elmwood Railway Company has filed its written acceptance of the same with the city clerk.

Spur Track on East Lafayette Street.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved January 10, 1887:

SECTION 1. Subject to the existing provisions and requirements of chapter ninety-nine (99) of the Revised Ordinance- of the City of Detroit, 1884, and of the supplementary ordinance in said
305 chapter contained and all amendatory ordinances thereto, consent, permission and authority are hereby given and granted to the Fort Wayne & Elmwood Railway Company to lay, construct, maintain and operate a single street railway track in East Lafayette street, in the city of Detroit, from a point one hundred and ten feet east of the east line of Randolph street to and so as to connect with the track of said company on Randolph street, the curve of said track at the intersection of said streets to run in a southerly direction.

SECTION 2. The right to amend or repeal this ordinance is hereby reserved.

SECTION 3. This ordinance shall take effect when the said railway company shall have filed with the city clerk its written acceptance of the terms thereof.

Extension of Line on Champlain Street to Easterly City Limits.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved August 20, 1888:

SECTION 1. That, subject to each and all of the existing provisions, regulations and requirements of chapter ninety-nine (99) of the Revised Ordinance- of the City of Detroit for the Year 1884, and of the supplementary ordinance in said chapter contained, and of all ordinances amendatory thereof, consent, permission and authority are hereby given and granted to the Fort Wayne & Elmwood Railway Company to lay, construct, maintain and use a street railway track thereon, to maintain and operate street railway cars upon and along the following avenue and street in the city of Detroit, namely:

306 Commencing at and connecting with the present easterly terminus of the street railway track of said company near the junction of Champlain street and the Boulevard, and running

thence easterly upon and along Champlain street to the easterly city limits.

SECTION 2. That, in addition to the provisions, regulations and requirements mentioned in the preceding section, the consent, permission and authority hereby given and granted are so granted and given, subject to the following conditions and limitations, with which the said company must and shall comply, namely:

1. The street railway track hereby authorized to be laid constructed and maintained shall be made a single track, with suitable and convenient turnouts, side tracks and switches, and shall be laid and maintained in the center of the street.

2. The said company shall complete the work of laying and constructing the street railway tracks hereby authorized, and shall have the same in operation and use within one year after the passage of this ordinance.

307 SECTION 3. The street railway track heretofore laid and constructed by said company under the provisions of the several ordinances mentioned in section 1, and the street railway tracks authorized to be laid and constructed by this ordinance, when completed shall be deemed one railway, and the route of such railway shall commence at either of the western termini thereof or within the city limits, from thence running along the line of said railway, as heretofore, hereby or hereunder established, to the easterly city limits; and in collecting fare the whole of said distance shall be deemed one route, and each passenger traveling the same continuously, either way, over the whole or any portion thereof, shall pay only one fare, the amount of which shall be five cents.

SECTION 4. This ordinance shall take effect when the said company shall have filed with the city clerk its written acceptance of the same, and shall execute and deliver to the controller of the city of Detroit a good and sufficient bond to the city in the sum of ten thousand dollars, to be approved by the common council, and conditioned for the faithful performance of the terms and conditions of this ordinance; provided, that such acceptance and bond shall be filed within thirty days after the passage of this ordinance.

Champlain Street and East Fort Street Lines.

The following ordinance, applying to and governing the Fort Wayne and Elmwood Railway Company, was approved by the common council January 3, 1889:

308 SECTION 1. Subject to the ordinance- of Detroit, now in force relative to the Fort Wayne & Elmwood Railway Company, except so far as they may be modified by this ordinance consent, permission and authority are hereby given and granted to the Fort Wayne & Elmwood Railway Company to lay, construct, maintain and use street railway tracks, and thereon to maintain and operate street railway cars, upon and along the following streets, avenues and places in the city of Detroit, namely:

Commencing at and connecting with the railway track of said company at the junction of Woodward avenue and Fort street run-

ning thence along and on the Campus Martius to the north part of Cadillac square; thence along and upon the north part of Cadillac square to Bates street, thence along and upon Bates street to the railway track of said company on Randolph street.

Also commencing at and connecting with the railway track of said company at the junction of Randolph and Champlain streets, running thence upon and along Champlain street to the railway track of said company at the junction of Champlain street and Elmwood avenue.

Also commencing at and connecting with the railway track of said company at the junction of Champlain street and Mt. Elliott avenue, running thence upon and along Mt. Elliott avenue to Fort street, thence upon and along Fort street to Baldwin avenue, thence along and upon Baldwin avenue to Champlain street, there connecting with the railway track of said company to be built on said street.

Also commencing at and connecting with the railway track of said company at the junction of Champlain street and Helen avenue, running thence upon and along Helen avenue to Jefferson avenue;
309 thence, with the consent of the Detroit City railway first obtained, upon the tracks of the Detroit City railway upon and along Jefferson avenue to the junction of Jefferson and Frontenac avenues; thence to a point at a convenient distance from the Belle Isle Park bridge, to be fixed by the board of public works.

Also an additional track on Champlain street from Elmwood avenue to Mt. Elliott.

SECTION 2. All of the railway tracks hereby authorized to be laid and maintained shall be laid and maintained in the center of the street or avenue, except upon and along the Campus Martius and Champlain street, wherein the location of said tracks shall be established by the board of public works, who are hereby authorized and required to determine the line or location of such tracks upon and along the Campus Martius and Champlain street as shall in their judgment be deemed best for the public convenience, and at the same time secure to said company the full enjoyment of the rights and privileges hereby granted.

SECTION 3. The lines of street railway hereby authorized shall be single-track roads, with turnouts, side tracks or switches, except upon Champlain street, between Elmwood avenue and Mt. Elliott avenue, where an additional track is authorized (but without side tracks, turnouts or switches), and on Helen avenue and between Jefferson avenue and the Belle Isle Park bridge, where the railway shall be a single-track road with suitable and convenient side tracks, turnouts and switches. All side tracks, turnouts and switches
310 shall be removed from Croghan street, from Randolph street to McDougal avenue, those remaining to be used only for the private convenience of said company, and the street railway on Croghan street shall be made and continue a single-track road, without side tracks, turnouts or switches except as above provided.

SECTION 4. The said company shall complete the work of laying and constructing the railway tracks hereby authorized, and shall

have the same in operation within one year after the passage of this ordinance: Provided, however, that the railway track upon and along Fort street, between Mt. Elliott and Baldwin avenues, shall be laid, constructed and in use within one year after that portion of Fort street shall be open for public use.

SECTION 5. The street railway tracks heretofore laid and constructed by said company under the provisions of the ordinance mentioned in section 1, and the street railway track authorized to be laid by this ordinance, shall be deemed one railway, and the route of such railway shall commence at the western terminus thereof, at or within the city limits, from thence running along the lines of said railway, as hereinbefore and hereby established, to the eastern termini thereof, and in collecting fare the whole of said distance shall be deemed one route, and each passenger traveling the same continuously either way over the whole or any portion thereof, shall pay only one fare, the amount of which shall not exceed five cents: Provided, however, that said company shall issue and sell tickets at the rate of eight tickets for twenty-five cents, said
311 tickets to be good for transportation over the entire route of said company, or any portion thereof, traveled continuously either way, between the hours of 5.30 and 7 o'clock a. m. and 5.15 and 6.15 p. m. each ticket to be good for one fare, and this provision to become operative within sixty days after the passage of this ordinance.

SECTION 6. The said company is hereby authorized to use in operating its street railway, electricity or any proper or suitable motive power used by any other street railway company now or hereafter organized and operating in the city of Detroit, subject, however, to the same conditions and limitations. The said company shall run its cars at the average rate of speed of not less than six miles per hour, nor more than ten miles per hour, unless otherwise required by the common council.

SECTION 7. The said company shall have the right to run and operate its street railway cars across Belle Isle Park bridge whenever any other street railway company shall be granted the right so to do, with the same conditions and privileges as shall be accorded to such other company.

SECTION 8. This ordinance shall take effect when the said company shall have filed with the city clerk its written acceptance of the same, and shall have executed and delivered to the city of Detroit a good and sufficient bond in the penal sum of twenty thousand dollars ($20,000) to be approved by the common council, and conditioned for the faithful performance of the terms and conditions of this ordinance.

312 *Double Track on Fort Street West from Clarke Avenue to City Limits.*

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council September 1, 1891:

SECTION 1. That, subject to the provisions and requirements of existing ordinances, and such additions and amendments as may be made thereto, *that* consent, permission and authority be and the same *is* hereby given to the Fort Wayne and Elmwood Railway Company to lay, construct and maintain a double track on Fort street, west from Clerke avenue to the westerly city limits, said track to be laid contemporaneously with the paving of said street, and the expense of paving the portions of said street between the outer rails of said track be paid by said company. In case the foundations of the pavement in the remainder of the street is concrete, then the pavement between the outer rails shall have a concrete foundation, and the material of which the surface is paved shall be of the same character as that used in the adjacent portion of the street.

SECTION 2. This ordinance shall take immediate effect.

Double Track on Champlain Street.

The following ordinance applying to and governing the Fort Wayne & Belle Isle Railway Company, was approved by the common council on August 15, 1892:

SECTION 1. Subject to the provisions and requirements of existing ordinances and such amendments and additions as may be made thereto, consent, permission and authority be and the same *is*
313 hereby given to the Fort Wayne & Belle Isle Railway Company to lay, construct and maintain a double track on Champlain street, from Mt. Elliott avenue to Baldwin avenue, said track to be laid contemporaneously with the pavement of said street and the expense of paving the portion of said street between the outer rails to be paid by the company.

SECTION 2. The right to amend or repeal this ordinance in case of its violation by said company is expressly reserved.

SECTION 3. This ordinance shall take effect when the said railway company shall have filed with the city clerk its written acceptance of the terms thereof.

Sale of Certain Tickets on Cars.

The following ordinance, applying to and governing the Fort Wayne & Elmwood Railway Company, was approved by the common council February 4, 1893:

Whereas, section XIX of chapter 110 of the Revised Ordinances of the City of Detroit for the Year 1890, being section 5 of an ordinance approved January 31st, 1865, provides that the right to make such rules, orders and regulations as may from time to time be deemed necessary to protect the interest, welfare and accommodation of the public in relation to the Fort Wayne & Belle Isle Railway Company, is reserved to the common council of the city of Detroit; and

Whereas, section V of an ordinance approved January 3, 1889, with reference to said railway, being a part of chapter 110 of the Revised Ordinances for the Year 1890, provides that said
314 railway company shall issue and sell tickets for fares at the rate of eight tickets for twenty-five cents, to be good for trans-

portation between certain hours each day. It is hereby ordained by the people of the city of Detroit:

SECTION 1. It shall be the duty of the Fort Wayne & Elmwood Railway Company, its successors and assigns, to furnish the conductors of each and every car operated by the said company within the limits of the city of Detroit with tickets to be good for transportation between the hours of 5.30 and 7 o'clock a. m. and 5.15 and 6.16 p. m., each ticket to be good for transportation as provided for in said ordinance. (As amended February 26, 1895.)

SECTION 3. For each and every day in which the said Fort Wayne & Elmwood Railway Company, its successors and assigns, shall neglect to provide tickets for sale to those who shall apply as provided herein, the said company may be complained of as for a distinct offence and punished as hereinafter provided.

SECTION 4. Any violation of or failure to comply with the provisions or requirements of this ordinance shall be punished by fine not to exceed three hundred dollars and costs, and such fine and costs, when imposed, shall be recovered from the person or corporation so convicted by an action at law in the proper court.

SECTION 5. This ordinance shall take immediate effect.

Filed in clerk's office April 19, 1900.
WALTER S. HARSHA, *Clerk.*

315 *Replication.*

STATE OF MICHIGAN:

The Circuit Court of the United States for the Eastern District of Michigan, Southern Division. In Equity.

THE DETROIT CITIZENS' STREET RAILWAY COMPANY, Complainant,
—
THE CITY OF DETROIT, WILLIAM C. MAYBURY, Mayor, and Charles Flowers, Corporation Counsel, Defendants. } No. 3631.

The replication of The Detroit Citizens' Street Railway Company, complainant, to the answer of The City of Detroit, William C. Maybury, and Charles Flowers, defendants.

This repliant, saving and reserving to itself now and at all times hereafter all and all manner of benefit and advantage of exception which may be taken to the manifold insufficiencies of the said answer, for replication thereunto say- that it will aver, maintain, and prove its bill of complaint to be true, certain, and sufficient in the law to be answered unto, and that the said answer is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatever in the said answer contained material or effectual in the law to be replied unto and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and

things this repliant is and will be ready to aver, maintain, and prove as this honorable court shall direct, and humbly pray as in and by its said bill it has already prayed.

BRENNAN, DONNELLY & VAN DE MARK,
Solicitor for Complainant.

Filed May 7, 1900.
WALTER S. HARSHA, *Clerk.*

316 *Stipulation.*

In the Circuit Court of the United States for the Eastern District of Michigan, Southern Division. In Equity.

DETROIT CITIZENS' STREET RAILWAY COMPANY, Complainant,
vs.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, Mayor; Charles Flowers, Corporation Counsel, Defendants.
No. 3631.

In this cause it is hereby stipulated in open court by and between the respective parties hereto that the answer of said defendants filed herein correctly sets forth copies of all the ordinances adopted by the common council of the city of Detroit, under and by virtue of which the said complainant has acquired its rights, privileges, and franchises to operate its said system of street railway in the said city of Detroit; that in reliance thereon and for the purpose of procuring such money as it was necessary that the complainant should have for the construction, maintenance, repair, reconstruction, and operation of the various lines of railway therein and in said bill of complaint described, the said complainant issued bonds and borrowed thereon the money so needed; that the said complainant, its predecessors and lessors, have issued for the purposes aforesaid bonds amounting in the aggregate to eight million two hundred thousand dollars, payable in gold coin, with semi-annual interest, at the rate of five per cent. per annum; that many of the said bonds mature and will be due and
317 payable within the next three years, and it will be necessary for the said complainant to borrow a considerable amount of money to assist in the payment and retirement of said bonds by the issue of bonds of the same character; that all of said bonds outstanding are secured by mortgages given at various dates, by the terms of which all of the property, rights, privileges, and franchises of the complainant, its lessors and predecessors, including the franchises and rights fixed by the various ordinances and grants, together with all the tolls, fares, issues, earnings, and profits arising therefrom, have been mortgaged to the trustees therein named for the use, benefit, and security of the holders of said bonds; that said bonds have been sold to parties purchasing the same in the full faith and belief that said complainant, its lessors, predecessors, and grantors, had the right to charge the rates of fare fixed by said various ordinances; which said belief on the part of the holders of said bonds

was based upon the existence and terms of said ordinance and not otherwise.

It is stipulated and agreed that this cause may be heard upon the pleadings filed herein and this stipulation, which is submitted as the proofs in the case.

Dated at Detroit, Michigan, May twenty-first, 1900.

BRENNAN, DONNELLY & VAN DE MARK,
Complainant's Solicitors.

JASPER C. GATES,
TIMOTHY E. TARSNEY, *Of Counsel for Def't.*

Filed in the clerk's office May 21st, 1900.
WALTER S. HARSHA, *Clerk.*

318 *Stipulation.*

UNITED STATES OF AMERICA:

In the Circuit Court of the United States for the Eastern District of Michigan. In Equity.

THE DETROIT CITIZENS' STREET RAILWAY COMPANY, Complainant,
vs.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, and Charles Flowers, Defendants. } No. 3631.

It is hereby stipulated that this cause will be submitted to the court on pleadings and evidence to be taken in open court, and that it be so submitted on the 21st day of May, 1900, at the opening of court on that day or as soon thereafter as counsel can be heard.

May seventh, 1900.

BRENNAN, DONNELLY & VAN DE MARK,
Solicitors for Complainant.

CHARLES FLOWERS, *Solicitor for Defendant.*

Filed in the clerk's office May 21, 1900.
WALTER S. HARSHA, *Clerk.*

319 *Final Decree.*

At a session of the circuit court of the United States for the eastern district of Michigan, continued and held, pursuant to adjournment, at the district court room, in the city of Detroit, on Monday, the twenty-first day of May, in the year one thousand nine hundred.

Present: The Hon. Henry H. Swan, district judge.

THE DETROIT CITIZENS' STREET RAILWAY Company
v.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, and Charles Flowers.
} In Equity. No. 3631.

This cause came on to be heard at this term upon testimony taken in open court and was argued by counsel, and thereupon, upon consideration thereof, it was ordered, adjudged, and decreed as follows, namely:

That the said several ordinances adopted by The City of Detroit, the defendant herein, on the 16th day of August, A. D. 1899, copies whereof are attached to said bill, marked Exhibits A, B 2, C, D, E, and B, impair the obligations of the grants, contracts, rights, and privileges of the complainant under previously adopted valid ordinances of the City of Detroit, contrary to the provisions of article 1, section 10, of the Constitution of the United States, and are wholly and utterly null and void; and it is further ordered and de-
320 creed that the said City of Detroit, its common council, William C. Maybury, mayor; Charles Flowers, its corporation counsel, and each and every of its officers, agents, counselors, and attorneys be perpetually restrained and enjoined in any manner whatever, either by suits or actions or otherwise, from enforcing or attempting to enforce or carry out the provisions or any of them of said ordinances of August 16th, 1899, or either of them.

321 *Claim of Appeal and Order Allowing Same.*

UNITED STATES OF AMERICA:

Circuit Court of the United States for the Eastern District of Michigan, Southern Division. In Equity.

DETROIT CITIZENS' STREET RAILWAY COMPANY, Complainant,
vs.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, Mayor, and Charles Flowers, Corporation Counsel, Defendants.
} No. 3631.

The above-named defendants, conceiving themselves aggrieved by the final decree entered on the twenty-first day of May, A. D. 1900, in the above-entitled cause, do hereby appeal from said decree to the Supreme Court of the United States, and they pray that this their appeal may be allowed, and that a transcript of the record, together with the assignments of error and proceedings and the papers upon which said decree was made, duly authenticated, may be sent to the Supreme Court of the United States.

Dated Detroit, this 15th day of June, in the year of our Lord nineteen hundred.

CHAS. FLOWERS,
Solicitor for Defendants and Appellants.

TIMOTHY E. TARSNEY,
JASPER C. GATES,
Of Counsel.

322 And now, to wit, on this 15th day of June, in the year of our Lord nineteen hundred, it is ordered that the appeal in the above-entitled cause be allowed as prayed for.

HENRY H. SWAN,
District Judge.

Filed in clerk's office June 15, 1900.
WALTER S. HARSHA, *Clerk.*

323 UNITED STATES OF AMERICA:

Circuit Court of the United States for the Eastern District of Michigan, Southern Division. In Equity.

DETROIT CITIZENS' STREET RAILWAY COMPANY, Complainant,
vs.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, Mayor, and Charles Flowers, Corporation Counsel, Defendants. } No. 3631.

Assignments of Error.

And now comes the above-named defendants, by Charles Flowers their solicitor, and say that the circuit judge who rendered the final decree herein erred in the following particulars, to wit:

1. The circuit judge erred in holding that the language employed in the ordinance of November 24th, 1862, constituted a contract with the Detroit City Railway Company to charge the rate of fare therein provided for and during the period of its corporate existence.

2. The said circuit judge erred in holding that the common council of the city of Detroit had power to make and enter into a contract with the Detroit City Railway Company granting therein the right to said railway company to charge the rates of fare in said ordinance specified during the period of its corporate existence.

3. The said circuit judge erred in holding said ordinance
324 to be a contract between the City of Detroit and the said Detroit City Railway Company in relation to the rates of fare therein specified.

4. The said circuit judge erred in holding that the amendatory ordinance-, Exhibits "A," "B," "B 2," "C," "D," & "C," impaired the obligation of contract between the company and the City of Detroit.

5. The said circuit judge erred in granting a perpetual injunction restraining the enforcement of said several ordinances aforesaid.

6. The said circuit judge erred in decreeing that the defendant The City of Detroit should be restrained from exercising and enforcing the legislature powers conferred upon said city by the laws of the State of Michigan.

7. The said circuit judge erred in rendering a decree in favor of complainant and against defendant- herein.

CHAS. FLOWERS,
Solicitor for Defendants.

TIMOTHY E. TARSNEY,
JASPER C. GATES,
Of Counsel.

Filed in the clerk's office June 15, 1900.
WALTER S. HARSHA, *Clerk.*

325 *Bond on Appeal.*

UNITED STATES OF AMERICA:

Circuit Court of the United States for the Eastern District of Michigan, Southern Division. In Equity.

DETROIT CITIZENS' STREET RAILWAY COMPANY, Complainant,
vs.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, Mayor, and Charles Flowers, Corporation Counsel, Defendants. } No. 3631.

Know all men by these presents that we, the City of Detroit, William C. Maybury, Charles Flowers, and Timothy E. Tarsney, are held and firmly bound unto the above-named Detroit Citizens' Street Railway Company in the sum of two hundred and fifty dollars, to be paid to the said Detroit Citizens' Street Railway Company; for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this twenty-first day of May, in the year of our Lord nineteen hundred.

Whereas the above-named City of Detroit, William C. Maybury, and Charles Flowers have prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled cause by the judge of the circuit court of the United States for the eastern district of Michigan, southern division:

Now, therefore, the condition of this obligation is such that
326 if the above-named City of Detroit, William C. Maybury, and Charles Flowers shall prosecute said appeal to effect an- answer *of* damages and costs if they fail to make said appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

CHAS. FLOWERS. [SEAL.]
WILLIAM C. MAYBURY. [SEAL.]
TIMOTHY E. TARSNEY. [SEAL.]
CITY OF DETROIT,
By F. A. BLADES, *Controller.*

We consent to the form and penalty of the above bond, and that the same may be approved.

BRENNAN, DONNELLY & VAN DE MARK,
Solicitors for Complainant and Appellee.

I hereby approve the foregoing security on appeal.
Detroit, June 15th, 1900.

HENRY H. SWAN,
District Judge.

Filed in the clerk's office June 15th, 1900.

WALTER S. HARSHA, *Clerk.*

327 UNITED STATES OF AMERICA, *ss:*

The President of the United States to Detroit Citizens' Street Railway Company, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at Washington, within thirty days from the date of this writ, pursuant to an appeal filed in the clerk's office of the circuit court of the United States for the eastern district of Michigan, southern division, in equity, wherein The Detroit Citizens' Street Railway Company is complainant and appellee and The City of Detroit, William C. Maybury, mayor, and Charles Flowers, corporation counsel, are defendants and appellants, to show cause, if any there be, why the decree in said appeal mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Hon. Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 15th day of June, in the year of our Lord nineteen hundred, and of the Independence of the United States the one hundred and twenty-fourth.

[Seal of the Circuit Court, Eastern District of Michigan.]

HENRY H. SWAN,
District Judge.

Attest: WALTER S. HARSHA, *Clerk.*

Rec'd copy of the above citation June 15, 1900.

BRENNAN, DONNELLY & VAN DE MARK,
For Def'd't in Error.

328 [Endorsed:] 3631. United States of America. Detroit Citizens' Street Railway Company, complainant, *vs.* The City of Detroit, William C. Maybury, mayor; Charles Flowers, corporation counsel, defendants. Citation. Filed in clerk's office June 15, 1900. Walter S. Harsha, clerk.

329 *Order Extending Time to Make Return.*

At a session of the circuit court of the United States for the eastern district of Michigan, continued and held, pursuant to adjournment, at the district court room, in the city of Detroit, on Friday, the thirteenth day of July, in the year one thousand nine hundred.

Present: The Honorable Henry H. Swan, district judge.

DETROIT CITIZENS' STREET RAILWAY COMPANY, Complainant,
vs.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, Mayor; Charles Flowers, Corporation Counsel, Defendants. } In Equity. No. 3631.

Upon application of Walter S. Harsha, clerk, the time to make return to appeal is hereby extended thirty (30) days.

329½ At a session of the circuit court of the United States for the eastern district of Michigan, continued and held, pursuant to adjournment, at the district court room, in the city of Detroit, on Wednesday, the first day of August, in the year one thousand nine hundred.

Present. The Hon. Henry H. Swan, district judge.

DETROIT CITIZENS' STREET RAILWAY COMPANY
v.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, Mayor; Charles Flowers, Corporation Counsel. } In Equity. No. 3631.

Upon application of Walter S. Harsha, clerk, the time to make return to appeal is hereby extended one week.

330 UNITED STATES OF AMERICA:

In the Circuit Court of the United States for the Eastern District of Michigan, Southern Division. In Equity.

DETROIT CITIZENS' STREET RAILWAY CO.
v.
THE CITY OF DETROIT, WILLIAM C. MAYBURY, Mayor, and Charles Flowers, Corporation Counsel. } No. 3631.

EASTERN DISTRICT OF MICHIGAN, *ss:*

I, Walter S. Harsha, clerk of the circuit court of the United States for the eastern district of Michigan, do hereby certify and return to the claim of appeal of the above-named defendants that the above and foregoing is a true copy of the record and proceedings in said

cause as the same appear on file and of record in my office; that I have compared the same with the original and it is a true and correct transcript therefrom and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Detroit, in said district, this 15th day of August, in the year of our Lord one thousand nine hundred, and of the Independence of the United States of America the one hundred and twenty-fifth.

Seal of the Circuit Court, Eastern District of Michigan.

WALTER S. HARSHA, *Clerk.*

Endorsed on cover: File No., 17,897. E. Michigan C. C. U. S. Term No., 152. The City of Detroit, William C. Maybury, mayor, and Charles Flowers, corporation counsel, appellants, *vs.* The Detroit Citizens' Street Railway Company. Filed September 4th, 1900.